# Athletes AC

## 1AC - Plan

### Part 1 – The New Plantation

#### The NCAA runs the 21st century plantation – black athletes occupy the position of migrant labors who leave their homes in pursuit of the possibility of a better life. Instead, they are exploited for their work and become disposable to the institutions that bring them in. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

The opportunities of becoming socially mobile and providing for fam- ily are common goals for many Black athletes. A college education is one way Black athletes can assist their families and communities. Another opportunity for providing assistance would be to make it to the pros. The economically challenging conditions a significant percentage of Black athletes come from in some ways force them to use their athletic talents in hopes of improving their immediate conditions and the conditions of their families. Because most Black athletes must travel to colleges and universities to use their athletic abilities in exchange for an athletic schol- arship (wages) and possibly an education, their relationship with these universities and colleges are similar to the rotation oscillating migrant laborers do between their residence and work locations. This section intends to situate the experiences of Black athletes with the pattern of oscillating migrant laborers to illustrate how this rotation between two distinctively different (socially and culturally) locations can contribute to some of the negative experiences (racial isolation, low graduation rates, exploitation, etc.) Black athletes encounter at PWIs. This process of migration further exacerbates the experiences of Black student athletes at these institutions. It is important to note that research examining Black athletes at PWIs has taken into consideration the different structural positions they occupy in relation to their counterparts. There are studies that include the stereotypical belief regarding their intellectual inferiority and ath- letic superiority; the differences in their demographic and academic back- ground; overall college life experiences, mental health issues, and social support, and there are studies that illustrate how the academic perfor- mance of Black athletes is lower than that of White athletes once they are on campus.39 These studies allude to the social and cultural differences Black athletes encounter when they migrate to PWIs. Oscillating Migrant Laborers Oscillating migrant laborers are laborers who rotate for various periods of time from a work site residence to a family residence that have two dis- tinct cultural and social settings.40 Wilson explains that: Oscillating migration occurs when men’s [sic] homes are so far from their work that they cannot commute daily and can not see their families weekly, monthly, yearly or even less frequently.41 Wilson further states that during the colonial period around the late 1800s in Kimberley, South Africa: The first diggers were oscillating migrants in that they came to the diamond fields for a limited period of time before returning home to Damaraland, Swaziland, the Transkei or wherever they had left their families.42 This pattern of oscillating migration was also established in the gold mines on the Witwaterand in South Africa.43 According to Stichter: As the colonial economy developed, forced and other indirect non- market pressures vastly increased the numbers who participated, vol- untarily or involuntarily, in migrant labor.44 Taxation (e.g., Hut tax) was one obligation that involuntarily trans- formed many African people into oscillating migrant laborers.45 To provide for their families and fulfill different obligations set forth by colonial rule, African people oscillated from their villages to work loca- tions to sell their labor. Philpott describes this as the pattern for migrant laborers where, “migration is perceived as a temporary state, mainly to gain money, which will ultimately result in a return to the home society.”46 Oscillating migrant laborers enter these work locations fully prepared for labor, that is, their communities have supplied the costs of reproduc- tion for this labor. Therefore, the work location is only responsible to the able working body. The community again assumes responsibility for laborers that are injured and too old to work. The dominant features that make up the pattern for oscillating migrant laborers are: the rotation between work site and home site, the notion of trying to better financial conditions (pay taxes, buy food and clothes) back at home, and the fact that this labor is cheap, that is, the villages assume the greater responsibil- ity for the life of the laborer (bearing the cost of nurturing the skills) but not the benefits. Using this pattern will highlight the cultural and social challenges Black athletes encounter at predominantly White institutions. Both Stichter and Wilson explained that oscillating migrant laborers rotate from work sites to home residences that have different cultural and social settings. Predominantly White Division I institutions provide a similar situation for Black athletes in that they also experience the rota- tion between different social and cultural settings. They rotate from their communities’ cultural and social settings to those settings of col- leges and universities for various periods of time throughout the year to use their athletic talents to receive a scholarship (form wages) with hopes of obtaining an education, and thus a greater chance to assist their families. For example, after viewing a football team roster of a predominantly White National Collegiate Athletic Association (NCAA) Division I Midwestern university with a 2.4 percent Black enrollment in a state with a Black population of 2.3 percent there were 29 Black athletes on the ros- ter (34 percent of the team) of which 2 were from the state this university was located in, 6 were from other Midwestern states (Ohio, Missouri, and Illinois), 12 were from Southern states (Texas and Florida), 4 were from West Coast states (California mainly), and 5 were from East Coast states (New York and New Jersey); based on their hometown informa- tion, all were from urban environments vastly different from the city that housed this institution. Based on the media guides of the teams this institution competed against, this is a typical pattern for these PWIs. This practice is common and the list of predominantly White NCAA Division I institutions (also including Division II and III as they become more commercialized) that have a “pipeline” to the athletic labor pool in Black communities is extensive. Finally, according to Cicourel, oscillating migrant laborers’ experi- ences are organized around two cultures: their home sites, which include family and friends of similar social and cultural origins; and the work sites that involve social and cultural expression different and unfamiliar to them.47 Adler and Adler suggest that racial and socioeconomic barri- ers “leave Black athletes with little in common, culturally, with other students.”48 Therefore, both oscillating migrant laborers and Black ath- letes operate in this system of dualism best captured by Du Bois’s notion of “double consciousness” where there exists a “peculiar sensation...two souls, two thoughts, two unreconciled strivings, two warring ideas in one dark body.”49 Many Black athletes oscillate to these campuses trying to improve their economic conditions. They face challenges when they arrive at these institutions, similar to migrant laborers entering different cultural and social settings. Like Alvin Mack, they seek to enrich their lives and the lives of their family through athletic achievement that affords them the opportunity to play professional sports. Their route, especially in the case with football, will require migration to different social and cultural settings that will present socialization and acculturation challenges; at least until these PWIs become more inclusive in their structural configurations. In summary, the interworking of the components of the internal colonial model creates unique experiences of Black student athletes. From the time of the initial contact between the PWIs and Black student athlete, to the purpose of their presence at these institutions, to finally how the relationship is maintained, we will see how this model can be effective in providing an alternative perspective to the experiences of Black student athletes at PWIs. Table 2.1 further summarizes the compo- nents of internal colonialism, highlighting the specific functions of each component. To conclude, relevant to this discussion is the pervasive assumption about Black athletes’ intellectual abilities is a racist postulation that requires sufficient attention. This scientific racism contributes to the ideological underpinning of the relationship between the colonized and colonizer, and thus, the internal colonial arrangement—the New Plantation. It is the ideology of the intellectually inferior and physically superior Black athlete that cultivates opposing looks of adulation and “amused contempt and pity.”50

#### Black athletes value on campus are subsumed by histories of colonialism that mark black bodies as physically superior but intellectually inferior. These stereotypes render black athletes invisible and make them internalize self-doubt regarding their mere presence on campus. Van Rheenen 13

Van Rheenen, Derek [Associate Adjunct Professor Director, Cultural Studies of Sport in Education Ph.D., University of California, Berkeley; Cultural Studies]. "Exploitation in college sports: Race, revenue, and educational reward." International Review for the Sociology of Sport 48.5 (2013): 550-571.

In The New Plantation: Black Athletes, College Sports, and Predominantly White Institutions, Hawkins (2010: 71) argues that There is an institutionalization of cultural and social racism coupled with economic and political exploitation … between [predominately White institutions] and Black athletes … The dehumanization of Black athletes takes place when these institutions value Blacks more as athletes than as students, especially when output (athletic performance) does not equal input (educational opportunities). Sellers (2000: 146) notes that “universities, with a surplus of applicants for admission, seem to only show an interest in those individuals from poorer educational backgrounds who have skills that are unique and exploitive, such as the athlete.” The exploitation inherent to the admission of these recruited athletes has other negative consequences for these students. At many institutions, they are perceived as mere interlopers within the academic domain, emblematic of higher education’s ambivalence and resentment towards college sports and the young men and women who embody the jock identity. This, in turn, leads to stereotypes and discrimination, experienced as microaggressions from faculty and fellow students (Franklin, 1999; Franklin and Boyd-Franklin, 2000; Simons et al., 2007; Sue et al., 2007). Such stigma and microaggressions may disproportionately impact Black students at predominantly White institutions (PWI’s), making these students feel less welcome or invisible (Franklin, 2006; Franklin and BoydFranklin, 2000; Steele, 1992). According to Franklin (1999: 118), Microaggressions cause feelings of powerlessness because of the element of surprise and the person’s inability to control, much less eliminate, these experiences. They are embedded in the unconscious dynamics of cross-racial interactions, creating wariness and anxious anticipation. Their intention, in the conceptual wisdom of the African American community, is to remind one of one’s unprivileged status, giving credence to feelings of being victimized. While a Marxist analysis would emphasize college athletes’ lack of control of their labor within the production process, Franklin’s discussion reveals a lack of psycho-social control within a highly racialized environment. These lived experiences among many Black college athletes both problematize and expand the concept of exploitation as a social phenomenon rather than simply an unfair economic and educational (as payment in kind) exchange. However, as Beamish (2009: 95) reminds us, while the alienation which occurs as a byproduct of commodification is indeed an economic relation, it also has significant social implications. The conditions of alienation are a set of real, objective social conditions that exist in societies where the means of production are owned and controlled by a minority within civil society. They are not a psychological state of mind—indeed, one might not even be consciously aware of the objective class antagonisms, the real and potential conflicts that alienated labor produces, or feel any unhappiness, anxiety or concern about producing under capitalist relations of production. For Black male athletes, their sense of racial invisibility is juxtaposed with a hypervisibility around their athletic identity, reaffirming that “schools value their athletic competency but not their academic potential” (Harris, 2000: 45). In this regard, “Black males are either rendered invisible or are viewed as helpless victims of a racist system” (Majors, 1998: 16). As perceived victims of a racist system, Black male college athletes are more likely than their non-Black peers to feel exploited even though, structurally speaking, the economic exploitation of college athletes, as measured by surplus values and marginal revenue product, would seem to take equal advantage of all races and ethnicities. However, Van Rheenen (2011) found that Black college athletes felt significantly more exploited than their non-Black peers across every category of college athlete. These racial differences were found for both revenue and non-revenue college athletes, suggesting that Black college athletes were far more sensitive to their physical commodification in sport, even when participating on intercollegiate athletic teams which earned no surplus revenue for their university’s athletic department. These findings suggest that race clearly underlies participants’ perceptions of feeling exploited by their colleges or universities. This sense of alienation and exploitation has led critics to draw parallels between modern American sports and the historical legacy and practices of slavery, focusing in particular on the physical commodification of the black body (Eitzen, 2000; Mahiri and Van Rheenen, 2010; Rhoden, 2006). In Forty Million Dollar Slaves, Rhoden (2006) argued that despite the fame, fortune, and tremendous achievements of Black athletes in the United States today, these participants have little to no power in the multi-billion dollar sports industry. Rhoden compared today’s African American athletes to indentured slaves of the past, arguing that the primary difference is that today’s Black athletes bear responsibility for their own enslavement. The persistent comparison of playing fields to plantations has led some to caution against the overuse of loose language. As Branch (2011: 5) argues, Slavery analogies should be used carefully. College athletes are not slaves. Yet to survey the scene – corporations and universities enriching themselves on the backs of uncompensated young men, whose status as “student-athletes” deprives them of the right to due process guaranteed by the Constitution – is to catch an unmistakable whiff of the plantation. Perhaps a more apt metaphor is colonialism: college sports, as overseen by the NCAA, is a system imposed by well-meaning paternalists and rationalized with hoary sentiments about caring for the well-being of the colonized. But it is, nonetheless, unjust. At the collegiate level, where the principle of amateurism precludes the fortune to which Rhoden refers, a case could be made that revenue athletes who produce surplus value and merely receive a subsistence wage are far more exploited than their professional peers. The socio-political exploitation to which Hawkins and Rhoden refer could be similar for both college and professional athletes, in that neither possesses any real decision-making power vis-à-vis the NCAA and its member institutions or professional franchises and their owners, respectively. But while professional athletes may compare owners’ treatment of players to “modern-day slavery” (Fowler, 2011; see also Prior, 2006; Zirin, 2007), the NFL and NBA at least recognize players’ unions and rights to workers’ compensation; conversely, amateur college athletes have never successfully unionized and organized as a collective bargaining entity. In general, college athletes have few opportunities to exercise their rights nationally: “They have no union, no arbitration board, and rarely do they have representation on campus athletic committees” (Eitzen, 2009: 190). By celebrating and commodifying African American athletic performance in college and professional sports, institutions continue to support racial hierarchies of intellectual and physical superiority. These racial hierarchies are reproduced within a larger social discourse of division: the division of mind and body, of male and female, of Black and White, and of sport and school. Performative displays in sport both structure and police the boundaries of perception regarding the kinds of attributes that attend to one group versus another, such that even similar experiences can be charged with very different racial meanings (Andrews, 1996; Mahiri and Van Rheenen, 2010; Simons, 2003). Thus, the cultural archetype of the athletically gifted but academically suspect “dumb jock” reproduces artificial divisions of mind and body. When the so-called dumb jock is also Black, the ante is increased, adding to a cultural logic which in turn reinforces racial ideologies of Black physical superiority and intellectual weakness. As the stakes get higher, the losses can be calculated in real numbers and real lives. The alienation and exploitation of Black college athletes, then, is grounded both culturally and historically within an American race logic, attributing the notable athletic achievements of African Americans to natural, physical abilities and a biological advantage over other races (Coakley, 2009; Hoberman, 1997; St Louis, 2003, 2004). This logic or cultural ideology prevails in modern society despite a history of racial segregation and discrimination which has limited the opportunities for African Americans, particularly Black males, to achieve success in most spheres of social life other than sports (Edwards, 1985; Majors, 1998; Staples, 1982). Many Black youth internalize this logic, seeing a career in sports as their cultural and biological destiny (Coakley, 2009; Eitzen, 1999). But where sport appears to be one of the few avenues that provides true equal opportunity, it is more often a dead end for many young males drawn to athletic careers (Edwards, 1985; Majors, 1998). Thus, slavishly pursuing a career in sports can be about more than the commodification of one’s own athletic body for the production of surplus value. It can also mean feeling shackled and bound by cultural expectations of sport success and social mobility (Mahiri and Van Rheenen, 2010).

#### Anti-blackness is irreducible other networks of oppression. Blackness is defined as non-human by white supremacy. Heitzeg 15

Heitzeg, Nancy A [a Professor of Sociology and Director of the interdisciplinary Critical Studies of Race/Ethnicity Program at St. Catherine University, St. Paul, MN.]. "On The Occasion Of The 50th Anniversary Of The Civil Rights Act Of 1964: Persistent White Supremacy, Relentless Anti-Blackness, And The Limits Of The Law." Hamline J. Pub. L. & Pol'y 36 (2015): 54.

While all communities of color suffer from racism in general and its manifestation in criminal justice in particular, “Black” has been the literal and figurative counterpart of “white”. Anti-black racism is arguably at the very foundation of white supremacy; the two constitute the foundational book-ends for the legal, political and every day constructions of race in the United States.12 For this reason, in combination with the excessive over-representation of African Americans in the criminal justice system and the prison industrial complex, this analysis will largely focus on the ways in which the law has been a tool for the oppression of African Americans via the furtherance of white supremacy and antiblackness in both law and practice. While race has never reflected any biological reality, it is indeed a powerful social and political construct. In the U.S. and elsewhere, it has served to delineate “whiteness” as the “unraced” norm – the “unmarked marker” – while hierarchically devaluing “other” racial/ethnic categories with Blackness always as the antithesis.13 The socio-political construction of race coincides with the age of exploration, the rise of “scientific” classification schemes, and perhaps most significantly capitalism. In the United States, the solidification of racial hierarchies cannot be disentangled from the capitalist demands for “unfree” labor and expanded private property. By the late 1600s, race had been a marker for either free citizens or slave property, and colonial laws had reified this decades before the Revolutionary War.14 The question of slavery was at the center of debates in the creation of the United States and is referenced no less than ten times.15 By the time of the Constitutional Convention of 1787, the racial lines defining slave and free had already been rigidly drawn – white was “free” and black was “slave” – and the result according to Douglass was this: “assume the Constitution to be what we have briefly attempted to prove it to be, radically and essentially pro-slavery”. 16 The Three-Fifths Clause, the restriction on future bans of the slave trade and limits on the possibility of emancipation through escape were all clear indications of the significance of slavery to the Founders. The legal enouncement of slavery in the Constitution is one of the first of many “racial sacrifice covenants” to come, where the interests of Blacks were sacrificed for the nation. 17 The social and constitutional construction of white as free and Black as slave has on-going political and economic ramifications. According to Harris, whiteness not only allows access to property, may be conceived of per se as “whiteness as property”. 18 These property rights produce both tangible and intangible value to those who possess it; whiteness as property includes the right to profit and to exclude, even the perceived right to kill in defense of the borders of whiteness.19 As Harris notes: The concept of whiteness was premised on white supremacy rather than mere difference. “White” was defined and constructed in ways that increased its value by reinforcing its exclusivity. Indeed, just as whiteness as property embraced the right to exclude, whiteness as a theoretical construct evolved for the very purpose of racial exclusion. Thus, the concept of whiteness is built on both exclusion and racial subjugation. This fact was particularly evident during the period of the most rigid racial exclusion, as whiteness signified racial privilege and took the form of status property.20 Conversely, Blackness is defined as outside of the margins of humanity as chattel rather than persons, and defined outside of the margins of civil society. Frank Wilderson, in “The Prison Slave as Hegemonys (Silent) Scandal,” describes it like this: “Blackness in America generates no categories for the chromosome of history, and no data for the categories of immigration or sovereignty. It is an experience without analog — a past without a heritage.” 21 Directly condemned by the Constitution in ways that other once excluded groups (American Indians, women, immigrants, LGBTQ) were not, Blackness as marked by slavery– as property not person - creates an outsider status that makes future inclusion a daunting challenge.22

### Part 2 – Restrictions on Speech

#### Movements against the NCAA are growing in power – the traditional defenses that guarantee NCAA control are beginning to crack. Branch 15

Taylor Branch [Writer for the Atlantic The author of "The Shame of College Sports" ] 11/11/15 <https://www.theatlantic.com/business/archive/2015/11/ncaa-taylor-branch/415389/>

The moment for such a push may not be far off. Public support for the NCAA has declined in recent years and, what’s more, the current system has been the recipient of some less-than-indulgent court rulings. In August, the National Labor Relations Board overturned an earlier decision that would have allowed Northwestern University football players to vote on forming a trade union. Relieved NCAA officials cheered “the right call,” but the NLRB pointedly reserved judgment about whether college players should be legal employees, stressing that jurisdiction was declined largely because labor law does not apply to the many public universities competing with Northwestern in Big Ten sports. The NLRB deliberations raised a startling prospect: that college athletes could achieve union rights even while being denied the ordinary ones that most Americans hold individually, such as the right to seek compensation for work, something NCAA rules strictly forbid. In September, NCAA lawyers won a mixed reprieve on its rule that college players must forever surrender any right to compensation from sports merchandise bearing their names and images. In the landmark O’Bannon case, the U.S. Court of Appeals for the Ninth Circuit did find the NCAA too restrictive under antitrust law, but the decision overturned a lower court’s corrective order mandating that new earnings be limited to $5,000 per player per year and be sequestered until graduation lest the extra money interfere with an athlete’s studies. While deferring on the question of whether athletes can receive any compensation beyond the costs of attending school, the judges opined that “courts cannot and must not shy away from requiring the NCAA to play by the Sherman Act’s rules.” College administrators are preparing reluctant lines of retreat. Notre Dame’s president John Jenkins told The New York Times that Notre Dame would support changes in NCAA rules to allow athletes to sell their autographs or otherwise make money of their fame—provided that Notre Dame was not involved. “That seems to be where we are going,” he said. Similarly, the Pac-12 has proposed an amendment allowing players to pursue business opportunities so long as they do not identify or market themselves as athletes. Disputes over money are straining the NCAA’s unity. Early this year, the five major sports conferences (the Atlantic Coast, Big Ten, Big 12, Pac-12, and Southeastern) obtained “autonomy” to promulgate rules that would permit a modest cost-of-living scholarship raise for athletes. These five major sports conferences own the new football playoff system, reaping already an extra $500 million above their $2 billion in annual television revenue. They share none of this aggregate bonanza with the NCAA or its thousand member schools. For now they do let the NCAA collect television’s $770 million annual payment for March Madness, which supplies nearly all NCAA income, but leaders of the five conferences raised a veiled threat to leave and take the basketball tournament with them. State lawmakers, meanwhile, have stretched in vain to devise legal reinforcement for the economic constraints imposed by the NCAA’s compact among member schools. In 2014, when the NCAA suspended star running back Todd Gurley for four games for selling his autographed jersey, Georgia legislators channeled popular fury. “It hurt our season,” objected Representative Barry Fleming, introducing a criminal bill to incorporate NCAA rules indirectly by scapegoating any sports agent who “entices” an athlete to break them. Fleming lamented that Gurley’s mother “didn’t have funds to properly repair the roof on the trailer she raised him in,” but his bill sought recompense only for Georgia. The “Todd Gurley Law,” approved overwhelmingly in May 2015, authorizes the state to prosecute and sue an offending sports agent for the “loss of scholarships, loss of television revenue, loss of bowl revenue, and legal and other fees…” Although this untested recourse may be wildly impractical, and unconstitutional, the exercise allowed lawmakers to express their frustration with the NCAA. Pressure has exposed cracks in the NCAA’s professed devotion to the welfare of college athletes. Under prodding from President Theodore Roosevelt, colleges formed the organization in 1906 with a mission to curtail severe and mortal injuries among football players. Even so, defense lawyers filed a blunt disclaimer in wrongful death litigation two years ago: “The NCAA denies that it has a legal duty to protect student-athletes.” This ongoing case arose from head-on “Oklahoma” tackling drills at Frostburg State University in Maryland, during which co-captain Derek Sheely persevered through three days of wooziness and bleeding ear canals before he collapsed to die of brain trauma. Sheely’s parents appealed for an NCAA investigation into possible negligence or worse, but the NCAA closed ranks with Frostburg State. The NCAA’s president Mark Emmert did apologize to U.S. senators in 2014 for “a terrible choice of words created by legal counsel to make a legal argument,” and he emphasized the NCAA’s “clear, moral obligation to do everything we can to support and protect student-athletes.” Yet lawyers continue to resist discovery motions for NCAA communications with Frostburg State about Derek Sheely, arguing that disclosure “may be harmful to the NCAA’s legitimate business interests.” These business interests remain foreign to the association’s public stance as a tax-exempt nonprofit service for college athletes, chartered to enhance their education. Less-than-lofty reminders of this conflict, such as semi-literate players, drive the NCAA to acquire—and major sports schools to offload—more authority over admissions and other academic standards, even though this function has pushed athletic regulators into the faculty domain. The NCAA juggles conflicting roles in the wake of egregious revelations at the University of North Carolina, which has admitted that some 3,100 students enrolled in phony “paper classes” and 560 forged grades aimed to keep UNC athletes eligible between 1993 and 2011. While reserving judgment and punishment of UNC in the four-year-old scandal, the NCAA is simultaneously a co-defendant with UNC in a multi-million-dollar class action filed by former UNC players who allege educational fraud. NCAA lawyers contend for a notion of academic guardianship short of responsibility, submitting in U.S. District Court “that the NCAA did not assume a duty to ensure the quality of the education student-athletes received at member institutions.” Sports schools debate vague educational improvements. The PAC-12 is circulating a resolution “to establish a contiguous eight-hour period between 9 p.m. and 6 a.m. where athletic activities cannot be required,” which, if passed by the Autonomy Session at next year’s NCAA Convention, would prescribe a sleep break in the grueling sports regimen. One committee proposes to consolidate the many rules about academic misconduct at “one location in the Division I manual.” Another reform would elevate boilerplate language asserting that sports are “a vital component of the educational program and athletes shall be an integral part of the student body.” Beneath this rhetoric, sports schools have rushed to build lavish academic facilities reserved for athletes, such as Texas A&M’s $27 million Nye Center, UNC’s $30 million Loudermilk Center, and Oregon’s $41.7 million Jaqua Center, where tutors accountable to the athletic department supervise a growing portion of the curriculum. As demonstrated by UNC’s track record, this separated sports academy can subject college players to a tragic parody of education, worse than a Division I football team coached by biology professors. "I think we recognized that all of my football players are at-risk," Notre Dame coach Brian Kelly admitted of their academic well-being, “all of them—really.” He cited the demands of travel and nonstop training—“playing on the road, playing night games, getting home at 4 o’clock in the morning.” Still, somehow, only one idea provokes a battle cry to defend academic integrity. A right for athletes to seek fair monetary compensation would risk “Armageddon,” as Notre Dame president Jenkins put it.

#### In pursuit of better publicity universities and coaches institute speech codes and social media bans to control the image of the sport. Tarinelli 9/19/16

Ryan Tarinelli published 09/19/16 “College athletes generally have influence when they speak up, but they are often restricted by athletic department speech codes” <http://www.splc.org/article/2016/09/big-league-little-speech>

They announced the boycott through Twitter, vowing not to participate in any football activities until embattled Missouri President Tim Wolfe resigned over perceived inaction toward an inhospitable racial climate. “The athletes of color on the University of Missouri football team truly believe ‘Injustice Anywhere is a threat to Justice Everywhere,’” read a statement included in the tweet, which was published by Missouri defensive back Anthony Sherrils. The boycott came with a possible price tag for the university — forfeiting the upcoming game against Brigham Young University would have cost the university $1 million. A day later, another tweet from Sherrils appeared. This time, the picture included white football players, staff and even head football coach Gary Pinkel, who later tweeted the same image from his personal account. The sign of support was the final blow to the embattled president, who was already weathering a student hunger strike and an encampment of demonstrators occupying the university quad. Wolfe announced his resignation two days later. The ability to use social media to address a political controversy and even criticize their own institution is a right that many college students take for granted. But the fact that athletes were able to do so without disciplinary consequences is a rarity in college athletics. A 2014 project by the Student Press Law Center and journalism students at the University of Maryland confirmed that dozens of the NCAA Division I athletic programs restrict student-athletes’ speech on social media. The project revealed that the policies allow administrators to monitor student-athletes’ social media accounts and remove social media content they deem inappropriate. The policies and punishments can differ between athletic departments, with some programs requiring student-athletes to submit their usernames to the athletic department, while other departments prevent players from posting foul or offensive language. A policy for the men’s basketball team at the University of Georgia even requires players to get permission from their coach to have a Twitter account. Howard M. Wasserman, a law professor at Florida International University, said the general idea behind the different policies is the same: because student athletes receive significant benefits and participate on the team, schools believe they can restrict their speech in ways that could never lawfully be applied to the larger student body. “If I’m on an academic scholarship, I’m not told I can’t go out and speak on matters of public concern,” he said. A spokesperson from the National Collegiate Athletic Association did not return the Student Press Law Center’s request for comment. Kendall Spencer, chair of the NCAA Division I Student Athlete Advisory Committee, said speech regulations are a compromise most student-athletes accept. “There is an understanding that it’s sort of a double-edged sword,” said Spencer, a track and field star at the University of New Mexico who oversees a board of student-athlete representatives from various athletic conferences. While student- athletes do have free speech rights, he said, most players accept that there is a “brand” automatically associated with wearing a school’s jersey. “With all these social media outlets, one wrong thing gets said and it goes viral,” Spencer said, mentioning that a number of athletic departments do provide student-athletes with resources to teach them how to communicate effectively. He said the NCAA wants student-athletes to speak their minds but also wants them to see themselves as representing their institutions. The consequences for a poorly phrased or ill-thought-out social media post can be massive. In 2010, a University of North Carolina at Chapel Hill football player, Marvin Austin, sent a tweet that seemed to refer to potential illegal benefits for student- athletes from agents — “I live in club LIV so I get the tenant rate . . . bottles comin like its a giveaway.” After an investigation revealed inappropriate agent contact, further probing by NCAA investigators and local media uncovered a much larger academic- athletic scandal at UNC, with student-athletes receiving high grades for no-work classes. Austin, whose now-infamous post is referred to as the “tweet heard ‘round the world,” was permanently suspended from the UNC football team after it was revealed he had indeed received improper benefits. Wasserman said it’s unclear how a legal challenge to a speech restriction would play out in the courts. He said administrators would argue that student-athletes represent the university and its image, so the school should have some control over what they say. A court might also be swayed by the argument that restricting student-athlete speech is beneficial to team uniformity, he said. But on the other hand, Wasserman said student-athletes still have First Amendment rights. And since they are not classified as employees or paid, student-athletes do not give up their free speech rights when they accept a scholarship, he said. Still, Wasserman said the debate over student-athlete speech policies is more likely to play out in the press rather than in the courts. He said athletic departments do not often heavily enforce the policies and he has not heard of a student-athlete challenging a speech code in court. By restricting student-athlete speech, he said athletic departments try to protect and control the university’s image and message. And if a student-athlete does challenge a speech policy, Wasserman said they risk alienating their coach or teammates, which could result in reduced playing time or the loss of other benefits. “Those are all very powerful forces,” he said. SPEAKING OUT Like any person with celebrity status, prominent student-athletes can draw attention to any topic when they speak out — particularly football and men’s basketball players. As he prepared to play in the 2014 NCAA championship game, University of Connecticut basketball star Shabazz Napier made headlines when he commented that he does not always have enough money for food and sometimes goes to bed hungry. “We do have hungry nights that we don’t have enough money to get food in,” Napier said. “Sometimes, like I said, there’s hungry nights where I’m not able to eat, but I still got to play up to my capabilities.” Within weeks of Napier’s comments, the NCAA announced student-athletes could receive “unlimited” meals and snacks as an “effort to meet the nutritional needs of all student-athletes.” Before the rule, student-athletes relied on a food stipend or three meals a day. Spencer said the NCAA was considering changing its policy well before Napier’s comments. “This has really opened up the door for athletes to stand up for themselves, to have their own voice.” Jeremy Cash, a Duke University football player on the power of the Missouri football boycott Illustrating the power of whistleblowing on social media, a former University of Illinois football player’s string of Twitter posts led directly to the removal of the Illini’s head football coach. Former offensive lineman Simon Cvijanovic drew national attention for a string of tweets claiming “abuse and misuse of power” by coach Tim Beckman, including pushing athletes to play while hurt, worsening their injuries. The tweets provoked an investigation that led Illinois to fire Beckman just before the start of the 2015-16 season. Cvijanovic had completed his eligibility and was beyond the disciplinary reach of the athletic program. In September 2013, football players from Georgia Tech University, University of Georgia and Northwestern University protested the NCAA when they took the field with the letters “APU” written on their gear. The letters stood for “All Players United,” an effort organized by the National College Players Association to bring awareness to how the NCAA handles concussions and compensation. That same season, football players at Grambling State University in Louisiana staged a protest and refused to travel to a game, criticizing the poor facilities, the firing of their head coach and travel policies, which forced the team to take long bus trips to games. In response, school administrators fired George Ragsdale as interim head coach. Even so, Grambling was forced to cancel the game against Jackson State University when players refused to travel to the game. Spencer, who serves as the first student-athlete on the NCAA Division I Board of Directors, said the 2015 Missouri boycott showed that student-athletes can address issues that go beyond their team or university. The public is starting to see the role college athletics can play in addressing larger societal issues, he said. “I think that’s fantastic,” Spencer said, adding that he loves seeing student-athletes assume an added level of responsibility and speak out in a positive way. “I think that’s one of the best gifts of being a college athlete.” Brice Johnson, a senior on the UNC basketball team, told local media after the boycott that it was powerful to see the Missouri football team play a role in Wolfe’s resignation. “If a team here did that, say the Carolina basketball team did something like that, that guy would probably be out like two minutes after,” Johnson said, according to The (Raleigh) News & Observer. “The Carolina basketball program is very powerful.” Jeremy Cash, a Duke University football player, was also quoted as saying that the Missouri incident served as a “catalyst” for additional boycotts and protests by student-athletes. “This has really opened up the door for athletes to stand up for themselves, to have their own voice,” he said. Still, the boycott was criticized by some, including Republican Missouri Rep. Rick Brattin, who pre-filed a bill in December that would revoke a student-athlete’s scholarship if they call, incite, support or participate in a strike by refusing to play. In response, former Missouri football player Ian Simon spoke out against the bill. “They want to call us student-athletes, but they keep us out of the student part of it,” Simon said in an interview with the Missourian. “I’m more than just a football player. . . . As soon as we’re done playing at the University of Missouri, the University of Missouri does not care about us anymore. We are not their responsibility. . . . Our sport is just a small part of who we are.” The bill was withdrawn shortly after it was introduced. Brattin did not return the SPLC’s request for an interview. Wasserman said the mentality around student-athlete speech has changed in favor of tighter restrictions. When NBA star Kareem Abdul-Jabbar played at the University of California-Los Angeles under legendary coach John Wooden, Abdul-Jabbar took part in black student protests with the approval of Wooden — the only stipulation was that he not embarrass the program, Wasserman said. But now, Wasserman said many coaches would see any sort of off-the-field speech about political controversy as embarrassing and potentially hurtful to the program.

#### These policies lack any constitutional backing and more censorship is coming – the NCAA has pushed schools to censor speech over the last 5 years in order to save its dying brand. Gay 11 Jd candidate

Gay, J. [.D. Candidate, May 2013, Florida State University College of Law; B.A. Political Science, ] "Hands off Twitter: Are NCAA student-athlete social media bans unconstitutional." Fla. St. UL Rev. 39 (2011): 781.

Several athletic departments of public universities have banned student-athletes within those departments from speaking through social media. n143 The Mississippi State University men's basketball team and the New Mexico State University men's basketball team have implemented bans on social media. n144 Both of those bans are still in effect. n145 The University of Georgia men's basketball program enforced a ban on social media for one season, but has recently lifted the ban. n146 A larger number of public schools have banned college football players from using social media. Their teams are as follows: the University of South Carolina Gamecocks, n147 the Boise State University Broncos, n148 the University of Iowa Hawkeyes, n149 and the University of Kansas Jayhawks. n150 Admittedly, bans on only a handful of public university teams may not appear to indicate that similar bans will spread. However, that is a false reading. Social media is a recent phenomenon, and considering the exponential growth of attention that collegiate athletics demand, the possibility that bans on student-athletes from using social media could proliferate is much more likely. C. Why Student-Athletes Are Banned from Using Social Media Recent studies have shown that an overwhelming majority of college students and young adults use social media websites. n151 Notably, no public universities have banned the general student body from using social media. While this discrepancy in treatment among col- [\*797] lege students who are members of school athletic teams and those students who are not is possibly sufficient evidence of a violation of First Amendment rights, the reasons that school officials and college coaches have offered for the bans are even more transparent. In August 2011, Steve Spurrier, the head coach of the South Carolina Gamecocks football team, banned his players from using Twitter. n152 A few players had made offensive statements on their Twitter accounts that had begun to draw negative attention to the football program. n153 That media attention caused Spurrier to address the issue. n154 First, it is noteworthy that the players' online speech is the type that would be protected under the standard that the Supreme Court created in Reno v. ACLU. n155 Spurrier, when asked by reporters why he had banned his players from using Twitter, said, "Well, we have some dumb, immature players that put crap on their Twitter, and we don't need that. So the best thing to do is just ban it . . . ." n156 Another example is found in a statement made by Turner Gill, head coach of the Kansas Jayhawks football team, also in August 2011. At the press conference in which he announced the ban on his football team from using Twitter, he stated, "The reason we decided to not allow our players to have a Twitter account is we feel like it will prevent us from being able to prepare our football program to move forward. Simple as that." n157 Each school and coach has offered this type of rationale for banning student- athletes from using social media. n158 The motivations for restricting student-athlete's speech are easy to discern. Schools and coaches wish to avoid negative attention and embarrassment. They want student-athletes to create a positive image of the school and the team and are willing to censor student-athletes to achieve this end even if it may be unconstitutional. They also have a strong interest in supporting policies that achieve on-field results at the expense of other important values-like constitutionally protected student speech. [\*798] While varied, these reasons have a commonality: schools and coaches consider speech by student-athletes to be a privilege, not a right. And when that speech raises the possibility of embarrassment or poor play in games, many schools and coaches have chosen harsh bans on protected speech instead of choosing constructive policies. Universities and coaches should implement policies aimed at teaching student-athletes that some types of speech-while constitutionally protected-may not be in the best interests of the team. However, there is potentially another reason why schools and coaches have been, and will continue to be, motivated to ban student-athletes from using social media. They need not look any further than the cautionary tale that is the University of North Carolina men's football team. In May 2010, then-North Carolina football player Marvin Austin made a handful of late-night posts on his Twitter account. n159 The posts were cryptic but seemed to indicate that he was at LIV (a posh Miami nightclub) and was enjoying bottle service. n160 NCAA rules regarding student-athletes receiving improper benefits are detailed and strict. n161 By July, the NCAA had interviewed Austin and other North Carolina football players regarding whether they received any improper benefits from school boosters or sports agents. n162 In response, North Carolina suspended Austin indefinitely for the entire 2010-11 season. n163 Additionally, North Carolina declared seven other football players ineligible for at least one game and did not allow an additional six players to play in the first game while both the school and the NCAA continued their investigations. n164 Ultimately, the NCAA found evidence that several North Carolina football players had received improper benefits. n165 The NCAA also found evidence that some North Carolina football players had committed academic fraud. n166 When the dust finally settled, several [\*799] North Carolina football players lost substantial portions of their athletic eligibility, head coach Butch Davis was fired, and Athletic Director Dick Baddour resigned. n167 Had Austin's Twitter posts not caught the eye of the NCAA, it seems safe to assume that the NCAA's spotlight would not have been focused on the North Carolina football program, and the many other violations would have gone unnoticed and unreported. When the NCAA sent its Notice of Allegations to North Carolina on June 21, 2011, one allegation in particular stood out for the purposes of this Note. n168 In allegation No. 9(b), the NCAA alleged: "In February through June 2010, the institution did not adequately and consistently monitor social networking activity that visibly illustrated potential amateurism violations within the football program . . . ." n169 This marked the first time that the NCAA either openly described a duty to monitor student-athletes' social media accounts or alleged that a school had failed to meet its duty. n170 It does not require any imagination to perceive the shock waves that this new policy sent through collegiate athletics. Was it simply a coincidence that the South Carolina, Kansas, and Iowa football programs all implemented bans on social media only a few weeks after the NCAA punished North Carolina for not monitoring its student-athletes' Twitter accounts? Or is it more likely that schools would rather implement wholesale restrictions on student speech than open themselves up to NCAA scrutiny? The latter seems decidedly more plausible.

#### Thus the plan: Public Colleges and Universities in the United States ought not restrict any constitutionally protected student athlete speech.

### Part 3 – Solvency

#### Decolonization requires free speech – top down reform from the university are easily white washed and assimilated into the existing structures of colonialism. Our embrace of free speech is a recognition that without their own voice athletes will remain at the whims of administrators. Hawkins 13 phd

Billy Hawkins [Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

The struggle for Black emancipation from colonial rule was and is in part a struggle for the right to have a voice in the democratic process. It was and continues to be a struggle to define ourselves, determine our destinies, and have control over the fruits of our labor. Initially defined in the U.S. Constitution as three-fifths human, Blacks were denied access in the political process; thus, not allowed to vote. It was legislation, such as, Fourteenth Amendment to the U.S. Constitution, which superseded the ruling that Blacks were three-fifths human, and the Fifteenth Amendment to the U.S. Constitution that prohibited citizens from being denied vot- ing privileges based on their race, which gave us a voice in the political process. In addition, the “African American” civil rights movement and the Black Power Movement were both monumental in their efforts to end racial discrimination and segregation in public facilities and in government services (e.g., education and public transportation), and sought economic empowerment and self-sufficiency within Black communities. Both also made efforts to diminish the predominantly White political control that ruled and the local, state, and national levels; thus, the motto of “a [B] lack face in a high place” explains elements of the motivation behind the movements. History proclaims the many monumental efforts made by individuals whose lives were sacrificial offerings surrendered so that Blacks, specifically, can have a political voice and representation in the leadership structure that govern this nation. The inertia we are witnessing in the racialized leadership structures of the universities and intercollegiate athletic departments is a contradiction to the diversity initiatives these institutions purport and a shameful re- minder of colonial rule that clearly sought to commodify and control the Black body and the labor and products it produced. There are organizations worth noting that are putting forth efforts to address the powerlessness of collegiate athletes, specifically, and increase the number of Black coaches in intercollegiate athletics, in general: one is the National College Players Association (NCPA), formerly named the Collegiate Athletes Coalition (CAC), and another is the Black Coaches Association (BCA). The NCPA is striving to increase the rights of athletes and reduce their powerlessness by providing them with a voice to address NCAA policies that impact their lives. The NCPA has out- lined ten goals they seek to achieve in order to accomplish their mission to “provide the means for college athletes to voice their concerns and change NCAA rules.”28 The impact of the NCPA was noted in it support of the White v. NCAA lawsuit settlement, which resulted in the NCAA making $445 million available to athletes through the Student-Athlete Opportunity Fund (SAOF) over the next six years and to offset expenses related to medical insurance premiums, parking fees, travel expenses home, and clothes.29 On the other hand, the BCA is lobbying the NCAA to institute an “Eddie Robinson Rule” similar to the Rooney Rule, which was created in 2003 and requires NFL teams to interview at least one minority candi- date for vacant head coaching positions. At the time, Commissioner Paul Tagliabue informed NFL teams who do not interview a minority candi- date for vacant head coaching position that they would be subject to fines of $500,000 or more. In 2003, the Detroit Lions were the first recipient to receive a fine of $200,000 for not interviewing a minority for the vacant head coach position created by the firing of Marty Mornhinweg. Another effort by the BCA is examining the hiring practices of Division IA and IAA head football coaches and rating their performance using a Hiring Report Card.30 The BCA also publishes a hiring report card regarding NCAA Division I women’s head basketball coaches.31 The goal of reporting the hiring practices of these institutions is threefold: to pro- vide insight into the hiring process, expose glaring discrepancies, and acknowledge efforts of improving racial diversity. The NCPA and the BCA are two examples of associations attempting to improve the voice of athletes in general and increase minority rep- resentation in leadership positions, specifically. As with any system of oppression, a shift in political power does not only rely on external forces applying pressure or with concessions from the ruling class, but in the words of Frederick Douglas: Power concedes nothing without a demand. It never did and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted with either words, or blows, or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress....Men may not get all they pay for in this world, but they must certainly pay for all they get. If we ever get free from the oppressions and wrongs heaped upon us, we must pay for their removal.32 \*\*\* This chapter sought to outline the political challenges of Black athletes at PWIs. These challenges include the ideology of amateurism and paternal- ism and PWIs elusive tactics of being altruistic yet annulling the political voice of Black athletes. Another challenge regards the lack of representation in leadership positions. Whether it is with the SAAC, in athletic adminis- tration, or in the ranks of coaching, the presence of Blacks are dispropor- tionately represented; thus lessening the chance of Black athletes having a representative to be a voice in the decision-making process. Again, repre- sentation does not necessarily equate to having a political voice, especially when Black leadership has been co-opted by the White establishment. Therefore, the struggle for representation and a political voice must be an informed and a conscious struggle; not merely one that seeks cosmetic changes where Black faces controlled by the White establishment are put in high places. History has documented how this has been detrimental to social progress and the democratization of the political process. The disconnect and the gap between the colonizer and the colonized who are politically oppressed is vast. Narrowing this gap will require altering the status quo, embracing diversity, relinquishing control, and empowering the disempowered. The time is far spent where Black bodies are exploited physically to accumulate capital for institutions that render them powerless and deprive them of their rights of making informed deci- sions about their lives. Too often, the reality of their political impotence is clouded amidst the recruiting sale’s pitch, the glamour and hype of “game day,” and the illusion that they will become professional athletes. The latter is the most devastating in regards to socially controlling and manipulating athletes and keeping them in submission and politically powerless.

#### The right to speak is always racialized on campus – white fans can burn jerseys, shout the N word, while simultaneously calling black athletes who speak out over sensitive and PC. Leonard 16

DAVID LEONARD 11/10/16 <https://theundefeated.com/features/student-athlete-revolt-2-0/> [David J. Leonard is a professor at Washington State University, Pullman. He is the author of After Artest: The NBA and the Assault on Blackness (SUNY Press, 2012) and the forthcoming Playing While White: Privilege & Power on/off the Field]

In an environment where several coaches, such as Jim Harbaugh (who did later back his players’ actions), Chris Ault, and Dabo Swinney, have made their opposition clear to both the methods and even the issues surrounding protests, and others have been vocal about a politics that may be less than supportive of #BlackLivesMatter, student-athlete protest is challenging. And who knows what messages coaches, who are often the most powerful people on campus, are delivering behind closed doors? And these are just coaches. After several members of the Arkansas women’s basketball team kneeled during the national anthem, state representatives publicly criticized them, even threatening to “take a knee on UA funding.” Evident here, protesting student-athletes have to contend with the wrath and power of boosters, legislatures, regents, and other friends of the program, all whose power has increased alongside of the rise of the corporate university and collegiate-athletic industrial complex. Is this is the scary future that stands before us? The repression and the foreclosure of the rights of free speech? Whereas Kaepernick and black athletes standing up against racism is seen as the worst expression of political correctness. White Americans who burn jerseys, who threaten punishment for protest, or who otherwise yell “shut up and play” are celebrated in some circles for making sports “great again.” This fear of racial backlash, or as Van Jones describes, a “whitelash,” is the climate that black student-athletes are entering into as they kneel, raise a fist, or simply question the daily racism they experience on campus. While nothing new, in this environment where university presidents and coaches are more beholden to regents, donors, and other members of the 1 percent, where “alt-right” media websites and social media cultivate an avalanche of mistruths, student-athlete activism is increasingly more difficult. At Nebraska, their protest prompted rebukes from both the governor and a regent, demanding that they be removed from the team. In Missouri, a legislator proposed a bill that would strip student-athletes of their scholarships for “call[ing], incit[ing], support[ing] or participat[ing] in any strike.” Others have faced significant hate and threats of violence as a result of protests. Fear is real and understandable. “A lot of student-athletes have not protested because the system is designed for them to stay silent. You can’t have a successful exploitive economic system if you give the exploited labor opportunities to speak their mind and protest,” concludes Louis Moore, professor at Grand Valley State University. Jessica Luther, author of Unsportsmanlike Conduct: College Football and the Politics of Rape, similarly notes “student-athletes who speak out about anything risk losing whatever resources they have access to, including something as severe as their scholarship or as important to them as their playing time.” For many student-athletes, their futures, and the potential, if not promise, of a professional payday, are dependent upon their scholarships, which are renewable each year. “1-year renewable scholarships give the coaches a lot of power,” says Moore in an email to me. “These were intentional in design and conveniently came during a rise in student-athlete protests to give coaches more control of their players.” Beyond threats to their immediate and long-term future, as well as the pressures to “shut up and play,” the structure of college athletics undermines the development of relationships. “Athletes are often separated from other students on the campuses of universities, especially those who play the big-money sports,” noted Jessica Luther in an email to me. “Student-athletes often have incredibly busy schedules, it’s not uncommon for them to live in student-athlete dorms, eat in student-athlete cafeterias, work out in student-athlete gym facilities, as well as have class schedules that have to work around their busy practice schedules.” For black student-athletes, the division between themselves and their nonparticipating black peers is real, undermining potential collaboration and a feeling of safety in numbers. Never mind the narrative of student-athletes being “normal students” or the public being sold the idea that student-athletes are compensated with a college experience, collegiate athletics is built upon the separation and division, undermining potential protests. According to Moore, “Student-athletes go to class with their peers, but after that they have a nice athletic building to go to which keeps them away from the general population. They miss out on a lot of the protests on campus.” The culture of separation and the regulation of their lives online and within the community does not protect student-athletes, particularly those of color, from hatred and violence. And those participating in protests, whether at a campus march or on the field, face significant backlash, all of which are attempts at silencing them. “Some believe DaiShon, Mohamed and myself should be kicked off the team or suspended, while some said we deserved to be lynched or shot like the other black people who have died recently,” reported Rose-Ivey following their pregame protest. “Another believed that since we didn’t want to stand for the anthem that we should be hung before the anthem at the next game.” Yet, black student-athletes don’t need to kneel or raise a fist to face backlash; black student-athletes don’t need to don #BlackLivesMatters T-shirts or tweet support for this cause to face hostility. As with their peers, the experiences of many black students at historically white colleges and universities are one of persistent racism. Rose-Ivey made this plain during his September news conference. “I can tell you from my own experience at this very institution and visiting other college campuses within the past four years that racism is still a problem that must be addressed. I can’t tell you the numerous amount of times I’ve heard the N-word being shouted at my teammates and me from opposing fans from behind our bench.” In an all too-familiar story, his introduction to college life was not the rosy picture he was sold, but a sad reminder that his life didn’t matter: “My freshman year, I can remember going to a frat party and was told that ‘n—— are not allowed in this house.’ We were escorted out several minutes later by security officers.” To protest these injustices, and those that persist throughout the nation, is difficult. It requires time and courage. It brings threats of punishment and violence, hatred from those near and far, especially given the institutionalization of racial hostility made clear this election. And for all too many black student-athletes, these fears are felt each and every day, whether standing or kneeling, whether they raise a fist or hold their hand across their hearts, whether they protest or simply shut up and play. The question should not just be why aren’t more student-athletes joining Kaepernick. Sure, there is power that can and should be exercised in the face of endemic racism. In the aftermath of an individual donning a Barack Obama costume at a Wisconsin football game that included a mask, an orange prison jumpsuit, and a NOOSE, more than 20 Wisconsin student-athletes, all of whom were black, took to Twitter to demand that the administration address the culture of racism. An essay accompanying the tweets made the specter of racism clear: “That moment was like a punch in the face to not only student-athletes of color, but also current students, faculty and alumni of color,” an essay accompanying the tweets reads. “When we travel and play in other stadiums, fans have told us to get out of their country or to go back to Africa, but it hurts to receives that treatment at home.” Yet, as evident by the endless examples of racism on college campuses, as evidenced by the refusal of athletic departments and university administrations to address their campus’ climates, these demands are going unheard. Clearly, kneeling or tweets or publicly shaming is not sufficient. Organizing is imperative; the leverage and power rests in their labor and profitability within collegiate sports.

#### Social media gives athletes ample opportunity to challenge their institutions. Missouri and other examples prove – athletes need to use their platforms. Epstein 16

Adam Epstein JD and Kathryn Kisska-Schulze JD 26 J. Legal Aspects Of Sport 71 2016

As a direct result of the O'Bannon case and other outspoken current-and former student-athletes, the NCAA was essentially forced to make select changes in order to secure some level of respect in the court of public opinion. For example, contemporaneous to NU football players challenging the amateurism model of the NCAA, University of Connecticut basketball player Shabazz Napier's told reporters in April 2014 that he often went to bed "starving," prompting the NCAA to immediately pass legislation allowing for expanded year-round meals for athletes. 164 In a separate example, the NCAA recently granted more autonomy to Power 5 conferences [encompassing the Atlantic Coast Conference (ACC), Big 10, Big 12, Pac-12, and the Southeastern Conference (SEC)]. 165 Under this new model, NCAA Division I schools can offer scholarships covering the full cost of attending the university, coaches can no longer strip a student-athlete's scholarship funds for purely athletic reasons, and student athletes can borrow against future earnings when getting loss-of-value insurance. 166¶ At the 2016 NCAA Convention, the Power 5 conferences voted to loosen certain rules restricting how Division I baseball and men's basketball players can interact with professional sports teams, allowing basketball players to enter the NBA draft multiple times and permitting baseball players to hire agents. 167 Further, [\*102] new NCAA rules allow high school baseball players to hire agents without losing their NCAA eligibility whereas previously, if a high school player hired an agent, the NCAA considered him to no longer be an amateur athlete and therefore ineligible. 168 Finally, effective May, 2016, the NCAA passed a rule allowing athletic departments the opportunity to provide summer scholarship funds to full and partial student-athlete scholarship recipients. 169 Indeed, we believe it is reasonable to assume that many of these immediate changes by the NCAA may be directly related to the use of social media to manage the court of public opinion. 170¶ Claims of Economic Injustice and the Future¶ One area within its regulations that the NCAA has thus far refused to change, no matter the pressure exerted, is its fundamental principle of amateurism. 171 This principle ensures that student-athletes who are, or have been, paid to play are essentially permanently ineligible to compete in varsity athletic competition. 172 Although the issue of paying student-athletes received national fame during the 2013 college football season with former Texas A&M quarterback Johnny Manziel, perceptions of economic injustice in every form within the college athletic arena has garnered heavy public scrutiny. 173¶ [\*103] The disparity between the economic benefits received by student-athlete vis-à-vis both their conference commissioners and coaches is embarrassingly monumental and continues to widen as coaching salaries skyrocket amidst the perpetual debate over whether student-athletes should be paid at all. 174 For example, the University of Alabama (UA) head football coach Nick Saban is currently the highest coach in NCAA football history, earning more than $ 7 million per year while even the UA strength coach made $ 600,000 in 2015. 175 Mark Emmert, President of the NCAA, is a multi-millionaire, as are now Power 5 conference commissioners and school athletic directors. 176 Amid these staggering numbers, the NCAA rigidly maintains that student-athletes must view their participation in sports as an avocation only and as unpaid amateurs. 177¶ When UCLA signed the largest apparel deal in the history of college athletics with Under Armour in spring 2016, quarterback Josh Rosen sarcastically tweeted, "We're still amateurs tho . . . gotta love non-profits. #NCAA." 178 The year before, two Stanford University football captains sat out a week of summer workouts and meetings in protest over the University's delay in providing the players scholarship money. 179 The captains alleged that Stanford was late for the third summer in a row. 180 Thus, though the NCAA maintains that student-athletes must not be paid, the NCAA cannot legislate that the student-athletes must not have an opinion on issues that matter to them, particularly financial ones.¶ [\*104] In a similar example of where booming revenues in college sports may prompt allegations of economic injustice relevant to student-athletes, the College Football Playoff now generates $ 7 billion from ESPN over the course of a 12-year contract. 181 Basketball's March Madness tournament generates nearly $ 11 billion from CBS Sports and Turner Broadcasting over a 14-year TV and Web contract agreement. 182 Collegiate sports merchandising and licensing revenues exceed $ 4 billion a year, and select conferences have their own television networks, to include the Pac-12 Network, the Big Ten Network, and the Longhorn Network. 183¶ As pressure continues to mount over the debate about whether student-athletes should be characterized as employees of their institutions, there is budding momentum for student-athletes to turn to social media and the Internet to nationalize their protests, furthering boisterous movements which evolved from the earliest forms of race and inequality protests across college campuses. 184 Whether that same courage and momentum which early student-athletes' efforts originally conjured will continue into the future ultimately depends on the passion of the players involved, and the media outlets which they use to bolster their voices which, in many cases, only last as long as their athletic scholarship of four years in general, unlike those who work in the public or private sector. 185¶ Outside the U.S. judicial system forcing change to occur within intercollegiate sports programs, it is likely that near future NCAA bylaw or policy changes will be incremental at best. However, the newly-shaped spectrum of collective college athlete action successfully promoting change via use of Internet is certainly the next wave of the future. As the iGen class continues to penetrate college athletic programs, it is foreseeable that the use of social media to promote change will be the catalyst for NCAA reform moving forward. If recent history with the resignation of the UM president is any indication, the NCAA and member institutions must prepare for the influx of future student-athlete mobilization efforts using social media, and [\*105] ultimately decide whether the court of national public opinion will pressure the non-profit organization to ultimately mandate change within its Indianapolis-based headquarters and its coast-to-coast college athletic programs as well.¶ Conclusion¶ Following the 2015 resignation of University of Missouri President Tim Wolfe, the question of what student-athlete mobilization efforts may look like in the future prompts reasonable concern for the NCAA and its member institutions. Although history shows that not all mobilization efforts have proven to be as successful as the Missouri boycott, history proves that student-athletes have a powerful voice in promoting national debate and in many cases effectuating change. Specifically, this article demonstrates that throughout history student-athletes have assumed strong collective college athlete action, originating from the Willis Ward incident in Ann Arbor, to various Howard University protests, to protests over treatment of others based upon race. Individual actions over workers' compensation claims have almost universally failed; however, as have attempts to characterize student-athletes as employees in general such as the Northwestern University mobilization effort.¶ As a result of recent acts of activism by student-athletes, the NCAA has made significant changes to its bylaws while at the same time refusing to compromise its immemorial stance on amateurism. However, it is important to note that the Missouri football team's effort marks one of the most effective and passionate mobilization campaigns in recent college sports history, and may be the catalyst for reform within college athletic programs across the country. As the iGen class continues its social media savviness within the realm of college sports, both the NCAA and university athletic programs will be hard-pressed not to take into consideration the voices of a generation raised on Google, armed with the most powerful operating systems in history, and literally within the grasp of their # hand

#### NCAA restrictions are based on the need to depoliticize athletes in order to preserve the colorblind myth that sports are a bastion of racial progress. Using the platform of sport ruptures this white mythology and empowers black students. Henderson 09

Henderson, Simon. "Crossing the line: sport and the limits of civil rights protest." The international journal of the history of sport 26.1 (2009): 101-121.

With the passage of time the incident at Wyoming has gained something of an iconic status and is the most consistently cited incident of civil rights struggle through sports after the Smith and Carlos podium salute. A memorial to the stand made by the black players was later placed in the student union building at the university. Nevertheless, the players involved at the time did not see events in this wider context. Joe Williams recalled that at the time he and the other black players did not draw any parallel between their actions and those of Smith and Carlos at the Olympics the year before. Their principal concern was with the clear racism of the BYU and the treatment they received when they played against them. [53[53] Telephone interview with Joe Williams, 11 July 2004. View all notes ] The white players were shocked and hurt by the protest and the destruction of a winning team; this was their main reaction at the time of the events. Recalling events later, however, a broader context allows a more subtle perspective. Ken Hustad argued that knowing what he did 30 or more years on he would have supported their cause and wished he could have opened up communications to discuss things at the time. Michael Newton recalled that events moved very quickly with no time to talk through the issues with the black players or coach Eaton. Newton argued that it would be impossible for him as a white person to fully understand what the black players were facing. What is striking, though, is that there is still a feeling that however justified the grievances of these players may have been, the method of protest chosen was wrong. The team and sporting ideal were sacrosanct and should not be compromised by the intrusion of the civil rights struggle. [54[54] Telephone interview with Dr Michael Newton, 16 Aug. 2004; telephone interview with Ken Hustad, 21 March 2004. View all notes ] This prevailing belief provided a considerable frustration to those athletes who wished to engage in that struggle. Black player Melvin Hamilton later articulated his frustration by stating: ‘So I can beat you physically but when it comes to my civil rights I can't say anything.’ The fact that Hamilton participated in a violent game provides an interesting dynamic. Harry Edwards noted the irony that ‘black men, engaged in violent, aggressive, competitive sports actually were regarded as … non-violent’. [55[55] Telephone interview with Melvin Hamilton, 19 April 2004; Edwards, The Revolt of the Black Athlete, 26. View all notes ] The dichotomy is not so simple, though; playing the game was not widely recognized as a form of protest. The dominant sporting ideology regarded playing the game as compliance. Indeed Edwards argued that black sportsmen needed to become more conscious of their place as passive performers for sports crowds. Pamela Grundy's study of sport and education in North Carolina revealed that some black players did relish racially integrated contests because of the opportunity to physically punish white opponents. [56[56] Grundy, Learning to Win, 266–70. View all notes ] The central ideology of the sporting world, however, was that integrated competition represented racial progress and brought people together in a way that provided an example to the rest of society. The frustration felt by Hamilton and other athletes who wished to engage in civil rights activism was the restrictions they faced. They were able to play the game but could not successfully cross the line and protest against racial injustice. Athletes at Marquette, Kansas and Wyoming drew attention mainly to racial inequality in wider society rather than inside the sporting arena itself. This charge was, however, levelled by many student athletes. The accusations that sport perpetuated racial prejudice were deeply troubling to the National Collegiate Athletics Association (NCAA). Their response to the intrusion of racial politics in the sporting arena reveals the depth of the prevailing ideal that sport had delivered positive racial change and the desire to keep racial politics outside of the sporting arena. The attitude of the NCAA further exemplifies the difficulties faced by student athletes who wished to engage in the civil rights movement. As well as events at Marquette, Kansas, Wyoming and elsewhere, a series of articles in Sports Illustrated by Jack Olsen entitled ‘The Black Athlete – A Shameful Story’ highlighted race problems in college sports. [57[57] Olsen, The Black Athlete. View all notes ] NCAA president Marcus Plant wrote to public relations director Thomas Hansen in early August 1968 asking for a list of inaccuracies that were alleged to be contained in the Olsen articles. Plant explained he wanted to be ‘armed with all the ammunition I can get’. [58[58] Plant to Hansen, 2 Aug. 1968, Walter Byers Papers, ‘Racial Matters’ file, NCAA Archives. View all notes ] Hansen replied a week later with a number of rebuttals to the allegations made by Olsen in his article. While he argued that it was unrealistic for the NCAA to refute outright allegations of racism in college sports since the organization would be speaking for over 600 institutions, he did seek to expose Olsen as someone who had used questionable evidence. It is telling that the investigation he conducted was aimed at discrediting the claims made in the Sports Illustrated articles rather than looking into what could be done to improve the position of the black athlete. The NCAA was obviously sensitive to the charges of racial discrimination in college sports and was hurt by the allegation that sport was being exposed as a place with as much racism as wider society. Hansen corresponded with many of the institutions mentioned in the Olsen series and sent further information to Plant later in August 1968. In a letter of thanks to University of Washington athletic director James Owens, Hansen wrote: ‘It's most helpful to have specific cases to show that many of the printed complaints by Negroes are simply not factually true.’ He further mentioned that the NCAA council had discussed the ‘black athlete situation’ and would do so again in the future. [59[59] Hansen to Owens, 21 Aug. 1968, Walter Byers Papers, ‘Racial Matters’ file, NCAA Archives. View all notes ] The official minutes of the council meetings for 1968 reveal nothing of these conversations and, as such, it is not clear exactly how lengthy or serious they were. [60[60] NCAA Executive Council Minutes, 1968, Walter Byers Papers, Council, NCAA file, NCAA Archives. View all notes ] By highlighting the inaccuracies in Olsen's evidence Hansen was attempting to show that racism was limited to a small number of individuals and specific incidents. Hartmann correctly judges that Olsen ‘got the story of African-American discontent in sport right’. He is not, though, correct in asserting that Hansen came to a similar conclusion. To support his view, Hartmann points to a comment by Hansen that ‘SI [Sports Illustrated] isn't totally wrong, just incredibly sloppy’. He argues that this comment supports the summary by Hansen that the NCAA could not be defended against claims of racism. Firstly, however, the NCAA public relations director was only conceding that all of society had racism in it and that his establishment could not be held to account for all the people under its organization. He does not concede institutional racism. Secondly, Hartmann takes the Hansen quote out of context. The actual sentence in the letter read ‘here SI isn't totally wrong, just incredibly sloppy’. The word here is important because it draws attention to the specific subject of the previous paragraph which deals with a mix-up over a photograph and a by-line concerning the record breaking UCLA relay team. [61[61] Hartmann, Race, Culture and the Revolt of the Black Athlete, 222; Hansen to Plant, 13 Aug. 1968, Walter Byers Papers, ‘Racial Matters’ file, NCAA Archives. View all notes ] Hansen was commenting on this mix-up, not making a general point about Olsen's charges of racial prejudice. The NCAA clearly resented Olsen's assertions and president Plant wrote to Hansen concerning his investigations: ‘I am seeking a good opportunity to make a public appearance and devote my remarks toward outlining the deficiencies in this article and holding it up as a horrible example of irresponsible journalism.’ The incidences of racial unrest at the campus level which continued into 1969 received attention from the NCAA executive director Walter Byers. In a memorandum to Byers in November 1969 a list of questions was proposed which would be used in an investigation to ascertain the extent to which ‘outside interests’ may have been involved in the difficulties some universities had experienced with ‘Negro student-athletes’. Interestingly the vast majority of the proposed questions were aimed at discovering how students protested, what the impact was on other team members and coaches and the level of disruption to the university as a whole. Only two of the proposed 13 questions were actually interested in what the athletes were ‘demanding’ and whether or not the athletics department had met with the protesters. None of the questions that were to be used in ‘off the record’ discussions with coaches at Wyoming, Washington, Colorado state, Oregon State and Iowa probed whether or not black protesters' grievances were in any way legitimate or if the universities had attempted to meet these grievances with policy changes. [62[62]‘Investigation of Black Athlete Problem’, 10 Nov. 1969, Walter Byers Papers, ‘Racial Matters’ file, NCAA Archives. View all notes ] The attitudes of the NCAA are evidence of the determination to protect the cherished ideal of sport as a racially neutral arena. It was this ideal that made it so difficult for athletes to attempt to engage in civil rights activism. Sporting authorities wanted to keep sport apolitical but by insisting that it was a positive force for racial progress they were sending a message that invited an engagement with civil rights issues – especially when many athletes believed that sport was falling short of the ideal or could be used to do more to further the civil rights movement. The NCAA's principal concern, just like the IOC and USOC, was to stifle racial protest in the sporting arena and continue to promote the idealized vision of sport as a positive racial force. It is worth noting that with such a large and diverse membership the NCAA had only limited ability to organize a more proactive approach to the racial struggles at the campus level. Nevertheless, its primary concern with neutralizing dissent is clear. The dominant ideology of the sporting administration was that the civil rights struggle should remain outside the orbit of sport, yet it was believed that integrated sport brought racial progress. This provides the central paradox. An arena that was hailed as an example to the rest of society of successful race relations provided unique difficulties for those who wished to engage in civil rights activism. Athletes, both black and white, could not, without significant difficulties, cross the line and use their position to further the racial struggle.

### Part 4 – Framing

#### Our discussion about race will inevitably make people uncomfortable – there is no such thing as a safe or fair discussion about race. Black people will subject themselves to violence no matter the conditions of the discussion. The only question is whether or not there is a space to offend white norms of civility. Leonard and Porter 10

Zeus Leonardo & Ronald K. Porter [Graduate School of Education, University of California, Berkeley ](2010) Pedagogy of fear: toward a Fanonian theory of ‘safety’ in race dialogue, Race Ethnicity and Education, 13:2, 139-157

Part of color-blindness is to demand that race dialogue takes place in a ‘safe’ environment. This is tantamount to premising racial pedagogy on assumptions about comfort, which quickly degrade anti-racist teaching into image and personal management (Thompson 2003). In other words, the higher goal of understanding and fighting racism is exchanged for creating a safe space where whites can avoid publicly ‘look- ing racist’, which then overwhelms their reasons for participating in racial dialogue. This approach ironically still leaves intact what bell hooks (1992) has called the ‘terrorizing force of white supremacy’, even within the context of safety (174). As opposed to this, critical race pedagogy is inherently risky, uncomfortable, and funda- mentally unsafe (Lynn 1999), particularly for whites. This does not equate with creat- ing a hostile situation but to acknowledges that pedagogies that tackle racial power will be most uncomfortable for those who benefit from that power. It also acknowl- edges that mainstream race dialogue in education perpetuates what the poet Aimé Césaire (2000) would call a ‘pseudo-humanism’ (37) that establishes white humanity at the expense of people of color, reminding us that ‘the only way the European could make himself man was by fabricating slaves and monsters’ (Sartre 2004, lviii). In other words, it reaffirms an already hostile and unsafe environment for many students of color whose perspectives and experiences are consistently minimized. It may be a euphemized form of violence, a discursive ‘cool violence’ compared to the ‘hot violence’ of economic exploitation (McLaren, Leonardo, and Allen 1999), but linguis- tic racism is no less a violation (Derrida 1985), maintains links between material distributions of power and a politics of recognition (Fraser 1997), and lowers stan- dards of humanity. It reaffirms Zˇ izˇek’s (2008) insight that violence is part of the fabric of the daily functioning of social life where systemic and symbolic violence passes as natural (see Bourdieu and Passeron 1990; Bourdieu 1977). We suggest that a human- izing form of violence, a non-repressive expression of power, returns people to their rightful place, just as the violence of decolonization can potentially cancel the molest- ing power of colonialism.1 Safety discourses on race are a veiled form of violence and it will require a humanizing form of violence to expose contradictions in the discourse of ‘safety’. As a result, a new system of violence is introduced. We want to make it clear that we are not working from the hegemonic and literal appearance of violence and ask the reader to suspend naturalized images of violence as only bloodshed, physical, or repressive. A humanizing form of violence is a pedagogy and politics of disruption that shifts the regime of knowledge about what is ultimately possible as well as desirable as a racial arrangement. It is not violent in the usual and commonsensical sense of promoting war, injury, or coercion. Insofar as the theory of violence we put forth is positioned against racial domination, it is violently anti-violence. To the extent that racial violence is structured in discourse, we argue that dislodging it will require a violent undertaking in order to set pedagogy on a humanizing trajectory. For this we turn to Frantz Fanon’s insights – particularly the chapter concerning violence in The wretched of the earth. Fanon’s work instructs us to consider the dialectics of violence: education as violent and violence as educative. In public settings, people of color find themselves between the Scylla of becoming visible and the Charybdis of remaining silent. If minorities follow an analytics of color, they run the risk of incurring white symbolic racism at best or literal violence at worst. Although some may argue that people of color maintain their dignity and counteract the culture of silence when they come to voice, participating in public race dialogue makes them vulnerable to assaults on many fronts. On one level their actions illuminate what Fanon characterized as the tenuous relationship between humanity and reason. According to Gordon (1995), ‘If even reason or the understanding is infected with racism, where unreason stands on the opposite pole as a Manichaean abyss of black- ness, then a black man who reasons finds himself in the absurdity of the very construc- tion of himself as a black man who reasons...’ (8). On another level, by sharing their real perspectives on race, minorities become overt targets of personal and academic threats. It becomes a catch-22 for them. Either they must observe the safety of whites and be denied a space that promotes people of color’s growth and development or insist on a space of integrity and put themselves further at risk not only of violence, but also risk being conceived of as illogical or irrational. Thus, white privilege is at the center of most race dialogues, even those that aim to critique and undo racial advantage. Authentic participation for whites also has its contradictions but it is not marked by oppression. For people of color, race dialogue is more than ironic. A certain kind of violence that shifts the standards of humanity for people of color and whites is necessary if race dialogue is more than an exercise in safety but a search for liberatory possibilities. It is violent for whites and forces them to account for race in a condition of risk, not safety. If it is a safe condition, then it is the safety of being able to take risks, of putting oneself at risk, a condition many people of color already navigate, something Du Bois (1989) once described as ‘double consciousness’. It is also violent to people of color as it removes a previously violent regime from being ensconced and grafted onto their bodies. We return to the neutral definition of violence, which is not inherently negative or positive but judged for its consequences. At times, this requires performing violence against a primary violence, thereby making a truly peaceful coexistence possible: peace as a form of violence. Avoiding this violent shift allows an existing violence to continue, instituting a permanent state of discursive and ideological warfare. The educative possibilities of violence are found precisely in this consideration.

#### We should reject notions of normativity that rely on colorblind abstractions. Headley 04

Clevis Headley “Deligitimizing the Normativity of ‘Whiteness’: A critical Africana Philosophical Study of the Metaphoricity of “whiteness.” From What Whiteness Looks Like? Edited by George Yancy. 2004

First of all, whiteness masquerades as normativity, and there are vari- ous senses of normativity connected to it. From a sociological per- spective, whiteness serves as the norm for social acceptability or what is considered to be naturally human. Since whites define acceptable standards of public behavior, normal behavior is behavior that con- forms to white standards of decency, while abnormal behavior is be- havior that deviates from these standards. Consequently, blacks are seen as pathological to the extent that they engage in styles of speak- ing, walking, and dressing and embrace attitudes toward intimacy and social interaction that deviate from white standards. Oftentimes, what many neglect to underscore is that ironically, although whites pre- dominantly shape mainstream attitudes and behaviors, there is the tendency to treat these attitudes and behaviors as being universally characteristic of any rational being. In other words, these attitudes and behaviors enjoy the status of being those qualities characteristically at- tributed to abstract individualism. When mainstream attitudes and behaviors are thus viewed, whiteness becomes normative and devia- tion from this norm is seen as pathological. Closely associated with the sociological sense of normativity is a second sense of normativity, that of civic normativity. Here, whiteness functions as a form of consciousness beyond race, which means then that social interaction cannot be limited by concerns of race. For ex- ample, racial integration is premised upon the idea that ending racism requires the rejection of race. Integration, according to this view, em- braces the notions of equality, rationality, objectivity, and these values take focus away from the arbitrary characteristics of an individual such as his or her race. To the extent that integration advocates the in- tegration of blacks into the mainstream, there is the presumption that full participation in mainstream institutions by blacks represents the fulfillment of the vision of a society beyond race and racism. What es- capes notice is the fact that the institutions of mainstream society were historically structured on the basis of white privilege and black exclu- sion. Here, “whiteness” functions as a normativity only because pre- dominantly white institutions are seen as institutions beyond race, grounded on rational Enlightenment principles of equality, rational- ity, and objectivity. As such, these institutions can readily accommo- date any group, regardless of its cultural heritage. A third instance of whiteness functioning as normativity is found in the law: legal normativity. The critical focus on the role of whiteness in law has been pioneered by critical race theorists.14 This group of black and minority scholars, identifying themselves as speaking in the voice of color, expose the law as complicit in maintaining hegemony through cultural practices and beliefs which reinforce exploitative social and political structures that are partial to whiteness. To be more specific, “the legal legitimation of expectations of power and control that en- shrine the status quo as a neutral baseline, . . . masking the maintenance of white privilege and domination”15 conspires in promoting whiteness as normativity. In particular, whiteness functions as normativity with regard to the opposition to race-specific policies targeted at compen- sating historical victims for the harms of racial discrimination. The normativity of whiteness, in this context, takes the form of advocating color blindness, the notion that society should not “see” race. In other words, race should not play any significant role in how society treats in- dividuals. This emphasis on color blindness sanctions equal treatment regardless of race. In addition to this strong emphasis on equal treat- ment and color blindness, there is also the reigning sentiment that equality is, roughly speaking, simply a matter of formal equality of op- portunity. This formalistic spin on equality, the product of a formalistic analytic16 that essentially reduces equality of opportunity to political equality, which, in turn, leads to a construal of equality of opportunity as the removal of legal impediments to competition, does not acknowl- edge that inequalities in wealth and power significantly affect and dis- tort conditions of equality of opportunity. The consequence of the rhetoric of color blindness is that whites and blacks are seen as being in a symmetrical relation. In this view, whites are not seen as having bene- fited from any historical advantages over blacks. Furthermore, since the advocates of color blindness see no need for race-specific policies, they assume that current distributive shares are the fair outcome of individ- ual initiatives. Therefore, the fact that whites have benefited and con- tinue to benefit from institutional racism is not acknowledged. The result is that “the rhetoric of equal treatment and color blindness oper- ates to normalize whiteness. White is not considered a color, and equal treatment is used to cover up important and relevant differences be- tween people, a cover-up that leads to unjust treatment.”17 Whiteness functions as normativity in that it wraps itself in the progressive liberal cloak of equality, impartiality, and equal treatment. Robyn Wiegman recently commented on this aspect of whiteness, writing about “liberal whiteness,” namely, “a color-blind moral sameness whose reinvestment in ‘America’ rehabilitates the national narrative of democratic progress in the aftermath of social dissent and crisis.”18

#### And, understanding debate as a game reifies oppressive power structures. This framing of debate can only create more debate, while depoliticizing the conversations we have. Schnurer 04

Maxwell Schnurer [Assistant Professor Marist College] ‘Gaming as Control: Will To Power, the Prison of Debate and Game Called Potlatch’ 2004

The big question is: does gaming contribute to these revolutionary format changes? I will answer no. Rather, I would like to position gaming as a controlling force. Gaming is a challenging, innovative, and adaptable theory but, fundamentally, a theory of control. Gaming works as an answer to the question of what debates do. But while we can answer that we play a game (albeit a serious and complex one), we also say something about the players and why we play the game. Gaming became a tool for control – convincing debaters that energies of criticism should be reinvested into the debate community. The very parameters of Snider’s goals, to encourage more participants in debate, belie a rigged question. We are intended to succeed through gaming to bring a few other voices into debate. But like the plus-one activist struggle that simply seeks representation, this approach is doomed to failure. We should not be surprised that the traditional agents of social control have a brilliant new theory that encourages limited change. Gaming in fact operates to metastasize the crisis-politics of modern policy debate, covering over the rotting corpse with a sweet perfume. For example, gaming minimizes and cripples the increasing tension over activist-oriented arguments in debate rounds. Gaming encourages such argument innovation not for the world community but for the debate community, teaching students to passionately plead for change to an empty room. How can a theory understand the desire of debaters to crack open the debate methods and introduce something “outside” of debate as Snider points to in his most recent gaming essay? The answer is that it can’t. Debate as a model can only create more debate, and so long as our goal for debate is more debate, then we will never emerge to challenge larger forces of control. Worse than being satisfied with shouting at walls, approaching debate from the perspective of games encourages a god-complex that teaches debaters that saying something poignant in a debate round translates into something larger in the world. Christopher Douglas, a professor of English at Furman University, explores how games teach us to adore the replay: “This is the experience structured into the gaming process—the multiple tries at the same space-time moment. Like Superman after Lois Lane dies, we can in a sense turn back the clock and replay the challenge, to a better end” (2002, p. 7). What kind of academic activity encourages students to fantasize about making change without considering for the slightest bit how to bring that change about? Douglas positions this impulse alongside the Sisyphean burden of trying to make the world into a structured, controlled, sterile environment. Sisyphus and the reset button on a videogame console share a common ancestor with the debate model that has thirty debate teams advocating different policies in separate rooms at exactly the same time. All of these examples showcase humans desperately attempting to construct meaning out of a confusing world, where the human will to power forces the world to fit a structure. Douglas reminds us that games help to structure an oft-confusing world, imbuing the person imagining with god-like powers (McGuire, 1980; Nietzsche 1966): Games therefore do not threaten film’s status so much as they threaten religion, because they perform the same existentially soothing task as religion. They proffer a world of meaning, in which we not only have a task to perform, but a world that is made with us in mind. And indeed, the game world is made with us, or at least our avatar in mind. (Douglas, 2002, p. 9). Gaming draws forth a natural impulse of humans – to make the world in our image. But debate and videogames contain the same fantastic lure that encourages people to pore their energies into debate. Fiat and utopian flights of fancy are both seductions of our will to power, encouraging us to commit to becoming better debaters. This process of self-important distraction has its model in the theories of the hyper-real posited by Jean Baudrillard. He argues that modern economies are geared to sell humans mass produced products, but whose advertising attempts to convince people that they have an authentic experience with the product. Economic structures make products that are more-than real – hyperreal in order to sell their products. The hyperreal creates games and fantasylands that are far richer and pleasurable than real life. One example of the hyperreal is Epcott center at Disneyland, which reduces foreign cultures to their most base natures – ensuring that everything is uniform, bland, and suitably “ethnic.” While one never need worry about eating food that is “too strange” in the Epcott lands, other negatives emerge in the world of the hyperreal. Humans who desire order and structure to our worlds often come to prefer the hyperreal to the real. The hyperreal has a world with all of the attractions of our own, but with none of the depressing realities of our own world. The hyperreal doesn’t have credit card bills or racism. The hyperreal is filled with beautiful people (who all want to have sex with you). The hyperreal is a hot seduction pulling our vision and hearing away form our own lives. Describing Snider’s gaming as a dangerous distraction that pulls us away from our communities and our lives is a bit simplistic. Rather, gaming greases the wheels for powers of control to remain in control. Douglas articulates some of the specific ways games solidify structures of power. In board games or computer games, however, players actually do start out in relative equality (although there are some chance elements as well, depending on the game), whereas in real life, so many characteristic of one’s life are already determined before birth, including social and economic standing, political freedom, skin color, gender, etc. What games accomplish is the instilling of the ideology of equality, which postulates that we are born equal and that differences emerge later on; the primary different to be explained away in this way is that of economic disparity, and games help explain that difference as the result of, in America, hard work and effort vs. laziness. Thus gaming helps inculcate the ideology that covers over the fact that, with the exception of the information technology bubble, most of those who are wealthy in the United States were born that way. Beyond this narrow ideological function, the game helps create subjects that accept the inevitability of rules as things that are given and must be “played” within—or else there is no game. This process is not total or ever complete, as the current gaming discourse complaining about the rules shows; here, player critique a games rules in view of a conventionalized notion of how “reality” works, or, less often, how a game’s playability is compromised by rules that are too “realistic (Douglas, 2002, p. 24). Viewing debate as a game may have the opposite effect that Snider desires. Gaming teaches participants to play by the rules and even when challenging the game, to do that within the games structures. Debaters who are moved by poetry are encouraged to bring that poetry back to the debate realm – not to become poets. There are certainly debate-activists who bring their debate skills to bear on the political community. These debaters seamlessly slide between academic hyperbole in the First Affirmative Constructive and talking to homeless folks at a Food Not Bombs meal. But these folks are few and far between. Most who hear the call to conscience turn their backs on the call and justify their (in)actions by valorizing debate. Let me be clear that the desire of individuals to make the world is not the enemy. It is a positive drive that encourages debaters to fiat worlds into existence or hypothesizes that the world would be good if George Bush were before the International Criminal Court on charges of crimes against humanity. This drive to create a better world is the will to power. The big question is, what we do with that will to power? Recognizing that there are many complex problems in the world that require smart articulate people to solve them, we can appreciate the potential value of will to power (McGuire). In the debate context, will to power becomes reified in a hyper-real role-playing exercise. Debate can be an amazing experience where students learn about complex ideas and then take those ideas into their own lives and communities. Debate can be a method for learning that people have their own voices in a world drowning with mediated/televised slime-balls. Debate can encourage intellectual growth and cause epiphanies. Debate encourages solidarity and teaches people to struggle together. Debate is primed to be a blast furnace for the will to power and take it to the furthest level of revolutionary potential. The only limitation is our own. If we frame debate to limit the revolutionary potential of the participants, then we do a disservice not only to our students, but also to the world. Nietzschean will to power is a drive for self-overcoming, transforming fuel for personal and collective change. Will to power exists in all of us as a lunging to escape our current world and create another beyond the moral structure and hierarchy of this world. This desire to create a better world is admirable and is at the root of social change. My criticism of gaming is that this energy is sublimated into a fantasy world rather than being brought to the larger world. But perhaps there is a kind of game that might elicit something of what I desire . . . from within debate.

# Frontlines

The NCAA model of college sports perpetuates violence colonialism where black athletes come to schools chasing dreams of professionalism only to be treated as disposable, which perpetuates racist myths of black inferiority that justifies mass dehumanization and alienates athletes on campus ensuring their academic failure.

The AFF is recognition of their voice, which is the key starting point to decolonize sports by granting them political power. This is the first step to rupturing the racist myths that sports rests on – that’s Hawkins.

The case o/w’s any of their impact – racism is the central antagonism of civil society and sports is a central way schools lock that antagonism into power, which means we stop mass dehumanization and control the I/L to X impact

## Frontlines: Plan

### XT: U/Q

#### XT U Athletes experience on campus is filtered through the framework of a scientific racism that separates black intellectual ability from their expectations on the field. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

Scientific racism11 is another reason contributing to the lack of access. For example, this ideology positions Blacks on the lowest rung of the evolutionary ladder, where they are intellectually and emotionally in- ferior and lack the necessities of surviving in a competitive society. Some of the proponents of this ideology included renowned scholars, scientists, educators, and eugenicists, for example, Sir Francis Galton, August Comte, Lewis Henry Morgan, Samuel George Morton, Herbert Spencer, Arthur Jensen, William B. Shockley, and so on. History clearly documents the lifeline of the ideological assumption of Black intel- lectual inferiority and how policies were created because of it and to support it.12¶ Despite the efforts of W. E. B. Du Bois, Franz Boas, and so on, in refuting scientific racist assumptions, this ideology prevails in disguised forms and stereotypical images that have created resistance to Blacks’ collective progress. For example, the disproportionate representation of Blacks as athletes compared to students feeds into historical practices where the physicality of the Black body has been valued over the mind.13 Within this institutional arrangement, Blacks are seen as natural athletes (this also implies that no or very little work is needed to perform as su- perior athletes); and the only reason they are on these campuses is to play sports. Where Black and athlete have been seen as synonymous, adding student to this description creates a dual identity: the intellectually infe- rior individual who is not expected to perform as a student and the athlet- ically superior individual that must perform as an athlete.¶ Although all Black students at PWI may have the Black experience of being racially profiled to be athletes, on numerous accounts, I have had Black male students that do not participate in college sports inform me of how they are consistently racially profiled as an athlete. Personally, even as a graduate student, there were various times when I was racially pro- filed as an athlete. Some of the Black males I have communicated with have expressed how they have encountered negative experiences such as negative perceptions from faculty members or stereotyped by members of the student body, while others have played the “athlete” card to cash in on social privileges afforded to athletes in a college community.¶ Within this athletic/academic configuration, oftentimes, when trying to start a conversation, White students, faculty, and staff will make this obvious by innocently and sometimes ignorantly asking, “What sport do you play” or “do you run track, or, you play football, right?” The lat- ter question is the one that amazes me the most because not only have they asked the question but they have assumed an answer as well. This illustrates to me that not only do they make the assumption that you play sports but they have some preconceived notion, whether by race or body type, as to what sport you are supposed to play or played. As scientific racism filters through ways and means of the relationship between Black athletes and PWI, the desire for Black athletes to be accepted and valued on the merits of their intellectual skills instead of their physical prowess is the goal; or at least be able to narrow the gap between their identities of being students and athletes.¶ Therefore, it is appropriate to look beneath the surface into this com- plex situation between Black athletes and Division I NCAA institutions where institutional arrangements consistently position Black athletes as intellectually inferior and physically superior. These arrangements have positioned Black athletes in a peculiar situation of duality. W. E. B. Du Bois gives additional insight into this experience of duality when he states in The Soul of Black Folks:¶ After the Egyptian and the Indian, the Greek and Roman, the Teuton and Mongolian, the Negro is a sort of seventh son, born with a veil, and gifted with second sight in this American World, a world which yields him no true self-consciousness, but only lets him see himself through the revelation of the other world. It is a peculiar sensation this double consciousness, this sense of always looking at one’s self through eyes of others, of measuring one’s soul by the tape of a world that looks on in amused contempt and pity. One ever feels his twon- ess, an American, a Negro; two souls, two thoughts, two unrecon- ciled strivings, two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder.¶ The history of the American Negro is the history of this strife, this longing to attain self-conscious manhood, to merge his double self into a better and truer self. In this merging, he wishes neither of the old selves to be lost. He would not Africanize America, for America has too much to teach the world and Africa. He would not bleach his Negro soul in a flood of White Americanism, for he knows that Negro blood has a message for the world. He simply wishes to make it possible for a man to be both Negro and an American, without being cursed and spit upon by his fellows, without having the doors of opportunity closed roughly in his face.14¶ This conceptual framework by Du Bois provides a context that speaks to the issues of Black self-assessment, identity conflict, the racial impli- cation of exclusion because of this “Negro” identity, and the desire to be both and accepted equally. This statement by Du Bois is analogous to the conditions of Black men and women who strive to be both athletes and students at PWI. Being students and athletes at PWI presents a dichotomy; they are “two warring ideals in one dark body.” Black athletes, today, are not immune to the historical treatment of their ancestors. Though the treatment may seem better and they may have more privileges and access to more opportunities, the superior physicality of the Black body is an ideology that has been hard to de-institutionalize.

### XT U/Q: Economic exploitation

#### While coaches and schools make millions off their labor, athletes are stripped from their right to the fruits of their labor. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

¶ As we examine the structure of intercollegiate athletics, a similar con- clusion can be drawn where the athlete is not necessarily the property of the institutions, but its the rights to athletes’ labor and the profit off of their labor that makes the plantation model appropriate in examining the experiences of Black male athletes. Within the current new plantation model of intercollegiate athletics, the NCAA and its member institutions not only profit off of the labor of athletes, in general, and Black athletes, specifically, they also profit off of their images.31 For example, the sale of sports jerseys and championship T-shirts generates an estimated $6–7 million a year for the NCAA.¶ Furthermore, regarding the multiple streams of revenue in intercol- legiate athletics, a debate about its profitability exists. Clearly, there are institutions that function at a deficit year after year, yet there are others that have operating budgets that have increased significantly in ten years and some have doubled. Thus, whether the athletic departments and insti- tutions are breaking even or making a profit from the revenue sports of football and basketball is debatable, because if an athletic department had a budget of $50 million and it only makes $48 million, it still generated revenue. More specifically, the point of emphasis is that revenue is being generated and some members of the athletic department are reaping the benefits, while others may be operating at a deficit or simply breaking even. Many of the programs that are operating at a deficit are doing so because of their drive to keep up with schools that have larger economic resources (donors, endorsements, corporate sponsors, media rights, etc.). Therefore, they are simply operating beyond their means in attempts to compete in the athletic arms race.¶ An overview of the revenue generated by PWIs is outlined in the following tables. These tables are only economic snapshots of the revenue generated in big time college athletics: Table 4.2 illustrates the top NCAA athletic programs based on operating budgets—this table also includes overall expenses and football and basketball revenues and expenses; table 4.3 highlights the universities spending the most on recruiting budgets; table 4.4 illustrates the revenue generated by the 2007–2008 Associated Press Top 10 College Football programs; table 4.5 illustrates the revenue generated by the 2007–2008 Associated Press Top 10 College Basketball programs; Table 4.6 highlights highest paid football coaches; table 4.7 illustrates the highest paid basketball coaches; and finally, tables 4.8 and 4.9 illustrate the largest football stadiums and basketball arenas among NCAA athletic programs. You will notice some common themes regarding teams and conferences represented throughout the data listed within these tables. The main point is to inform of the amount of revenue involved with NCAA intercollegiate athletic programs, and how a signif- icant percentage of revenue is generated by sports with a high percentage of Black male athletes. The sale of media rights is another significant stream of income that generates revenue for many NCAA athletic departments. For example, Michael Smith and John Ourand outline the details of one of the lucrative collegiate media rights deals between ESPN, CBS, and the Southeastern Conference (SEC).32 According to Smith and Ourand, ESPN will pay the SEC a staggering $2.25 billion over the next 15 years—about $150 million a year—for the conference’s TV rights, giving the network all of the SEC’s content that was not taken by CBS’s 15-year, $55 million a year contract. Furthermore, Smith and Ourand explained that this will provide an average of $205 million a year in media rights beginning in 2009–2010 and running through fiscal 2025. They concluded that the SEC’s total payout to its schools in 2007–2008 was $63.6 million after the conference’s cut, which was distributed among the 12 universities and each school received about $5.3 million this past fiscal year; how- ever, this revised deal could increase annual revenue to $15 million per school.33¶ Other media deals worth noting are with Host Communication, CBS Collegiate Sports Properties, and ISP Sports and several NCAA institu- tions. For example, Host Communications has contracts at various rates with the following universities: University of Kentucky, a 10-year con- tract for $80.5 million, University of Arizona, a 12-year, $80.4 million extension that runs from 2007–2019, and the University of Tennessee, a 10-year deal for $83.4 million, which started July 2007 and continues to June 2017.34 Both contracts with Host and University of Kentucky and Tennessee include guaranteed revenue: Kentucky is guaranteed $79 million and the University of Tennessee is guaranteed $68 million rights fees and $15.4 million in capital improvements. Additional media rights deals include the following: CBS Collegiate signed a 10 year, $75 million deal with Louisiana State University; ISP Sport has a 10-year $66 million deal with FSU and a 9 year, $51.3 million deal with Auburn University.¶ Apparel agreements with major athletic shoe corporations are other lucrative streams of revenue for several NCAA athletic programs. Some examples of these agreements include the following: Nike has an 8-year, $28.34 million deal with the University of North Carolina–Chapel Hill; Adidas has an 8-year $60 million deal with University of Michigan, a 10-year $60 million agreement with Notre Dame, a 8-year, $26.67 mil- lion agreement with Kansas University, and a 5-year, $19.3 million deal with the University of Tennessee; and Under Armour has a 5-year, $10.5 million agreement with Auburn University, and a 5-year, $17.5 million agreement with the University of Maryland.¶ Finally, stadium naming rights is another stream of revenue NCAA athletic programs is using to generate revenue. Table 4.10 highlights some of the lucrative deals made between universities and sponsors.¶ The above examples are a brief overview of the multiple streams of rev- enue generated by several PWIs athletic programs. It is also important to note that these institutions are able to attract this mainly because of the sports of football and men’s basketball, although the revenue benefits all of the varsity sports.¶ Regarding revenue generated by the NCAA, the CBS contract to broadcast the NCAA Men’s Final Four Basketball Tournament is the major source of NCAA revenue. The next section will examine the racial demographics of the NCAA Men’s Basketball Tournament and their con- tributions to the capital accumulation of the NCAA.¶

### XT: Impact – alienation

#### Black athletes are socially excluded and the schools give up on them academically, which creates cycles of social alienation. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

This invisibility becomes greater for Black athletes when they are of no service to the school. Sport sociologist, George Sage, states that:¶ When their [Black athletes] eligibility has been used up or they become academically ineligible to compete for the team, they are discarded and ignored by the coaches who recruited them.45¶ If they suffer from injuries that prevent them from competing, they are also rendered invisible to these PWIs’ athletic departments.¶ Another way I have seen this invisibility in action is as a member of an athletic student services department. In the course of my involvement in higher education, I have encountered numerous Black athletes (male and female) dissatisfied with either the classes they were taking or majors they declared. They expressed interest in other areas. However, instead of “bodiless heads” as Ellison described, they were treated as “headless bodies” requiring their academic lives completely orchestrated for them. Many “well-intentioned” academic advisors do not see Black athletes for who they are, instead they see SAT or ACT scores, or some other statistic rather than individuals who have persistence, determination, and are able to work hard and achieve a desired outcome. The noncognitive variables they possess are proven indicators of academic success. Unfortunately, when academic majors are chosen for Black athletes, this is another exam- ple of how they are rendered invisible and incapable of making decisions that will affect their educational future.¶ The invisibility experienced by Black students and Black athletes at predominantly White campuses also exists in the form of alienation, racial and social isolation.46 Several studies have surveyed students and found that Black and Hispanic students at a California university experience greater alienation and isolation than White students.47 Similarly, a study of Black and White students at a Midwestern university found that Black students experienced more alienation than their White peers did.48¶ Alienation and isolation have been found to be two of the major pre- dictors of Black student adjustment on predominantly White campuses. The feeling of alienation by Black students and their isolation results in minimal involvement in on-campus activities. Other studies that have investigated Black students’ adjustment and achievement also found that alienation and isolation were strong predictors of negative outcomes for Black students.49¶ These studies also suggest that racism or racial tension produces an environment of alienation and isolation. Consequently, alienation and isolation are considered “self-induced” within this type of environment, where Black students choose or are forced to alienate and isolate themselves for comfort, security, and protection from racial tension. “Self-induced” alienation and isolation of Black students is a means of withdrawing into the Black experience.50¶ In a study of Black students on predominantly White campuses of North Carolina, it was concluded that perceptions of racial prejudice resulted not only in a growing dislike and mistrust of Whites but also in feelings of alienation that arouse a need to seek refuge exclusively among other Black students.51 It has also been suggested that Black students’ feelings of alienation and isolation are a means for them to avoid racial ignorance. Therefore, Black students take refuge with other Blacks to shield themselves from racial prejudices. Thus, self-induced alienation and isolation become mechanisms to remedy them from the ills of the hostile environment experienced by Black students on predominantly White campuses.¶ Another form of alienation and isolation that exists for the Blacks on predominantly White campuses occurs between Black students and Black athletes. A study cited in The Chronicle of Higher Education, found that enrolling a higher percentage of Black athletes and a lower percentage of Black students results in alienation and isolation; thus, Black athletes are more likely to alienate and isolate themselves (by choice or necessity) from the student body.52 William Rhoden, a journalist for the New York Times, interviewed Black students and Black athletes at several PWIs across the country and found that many athletes retreat into their athletic commu- nities.53 According to Rhoden, many schools with major revenue earning athletic programs increase the alienation of Black athletes by sequestering them in athletic dorms. He further states that, “Athletes, with a team- oriented mentality to begin with, often become a self-contained social unit.”54 This appears to be an experience common to both Black and White student athletes, and one remedy the NCAA implemented was in abolishing the concept of “athletic” dorms in 1996.55 This has removed the physical barriers of alienation and mainstreamed athletes into the larger student body housing, but it did not remove the team-oriented mentality that exists among student athletes, which also contributes to self-induced alienation and isolation.¶ Furthermore, social and racial isolation could be products of the recruit- ment process Black athletes go through. Another historical account by Jack Olsen illustrates how Black athletes are:¶ Recruited into a society for which he [or she] has no cultural or edu- cational preparation, and isolated by its unwritten codes, the typical Negro athlete discovers an immense gap between himself [herself]¶ and the college community.56¶ The fact that this statement was written over 40 years ago, speaks to the issue of how some Black athletes recruited by these institutions were from families where few, if any, members had attended college. Therefore, they lack the social and cultural background and the educational preparation that are specific for the community they are entering. However, today, in spite of culturally diversifying PWIs, Black students and Black athletes are still entering environments that are distinctly different socially and culturally from their social and cultural backgrounds.

### XT: Solvency – Sports key White Supremacy

#### Football sustains myths of white supremacy. Athletes attacking the white logic of football are key. Cline 9/3/16

Tyler Cline [graduate student in history at the University of Maine.] 9/3/16 https://www.jacobinmag.com/2016/09/college-football-union-northwestern-missouri-protest/

For example, college football served as a beacon of white supremacy in the decades before integration. Historian Lane Demas describes the uproar around the 1956 Sugar Bowl, in which segregated Georgia Tech accepted an invitation to play the University of Pittsburgh and their lone black starter. Georgia governor Marvin Griffin tried to block the team from playing unless Bobby Grier — the player in question — was kept off the field. The governor’s actions were hotly debated in the state and on the Georgia Tech campus, where students poured into the streets to protest his attempt to cancel the team’s invitation.¶ These white students were by no means integrationists, nor were they making explicitly political demands. In fact, as Demas explains, “many students berated the governor not for his hardline stance on segregation… but for trying to earn political favor through a situation that they felt held no political meaning.”¶ The students’ desire to depoliticize the situation and get back to the business of football revealed segregation’s deep roots in Southern politics at the time.¶ Demas writes that postwar Southern leaders saw college football as an opportunity to “reinforce identity in the twentieth century.” The game allowed Southerners to revel in economic expansion and technical growth — reflected in Georgia Tech’s reputation as an elite engineering school — while simultaneously reinforcing old social norms like segregation.¶ For segregationists, college football both normalized and depoliticized white supremacy’s policies. Even protests that appeared to promote integration turned out to accept segregation, limiting themselves to a fight over entertainment. College athletics holds itself separate from political debate.¶ This begins to explain the backlash the University of Missouri football team faced last year after courageously protesting the racial animus and economic inequality that surrounded them. Members of the school’s administration and state politicians attacked the team’s injection of politics into the world of sports by threatening to slash funding and revoke the team’s scholarships.¶ Despite this backlash, the team was ultimately successful in winning the central demand of Concerned Student 1950, the student organization that led the activist movement: namely, that president Timothy Wolfe resign.¶ The team refused to play or practice until Wolfe quit, and Mizzou faced a million-dollar fine if it forfeited a scheduled game. The beleaguered president, who many saw as too lenient in the face of escalating racism on campus, resigned in anger the next day.¶ The players’ efforts demonstrated the strength that a college football team can wield when it acts collectively. The money involved, not to mention the connections to the community fostered between the team and its fans, make it a powerful focal point for activism.¶ As long as college athletes are expected to depoliticize their labor, the deprivation they undergo for the sake of fans’ entertainment will be invisible. Substandard facilities, insufficient compensation, and grueling conditions make most football players’ lives far less glamorous and exciting than big-time athletics are usually portrayed.¶ Those who fight for better working conditions face punishment while watching their coaches pull in bigger and bigger paychecks, seemingly unimpeded by the NCAA’s commitment to amateurism that prevents athletes from getting paid. Meanwhile, the NCAA makes billions, harshly disciplines students caught using marijuana, and does nothing to lower the rate of concussions. It exploits student-athletes and will stand in the way of any progress toward treating players like the profit-generating labor force they are.¶ The association claims that it represents amateurism, but this is belied by the fortune it rakes in and the punishments it metes out, both on and off the field. Any future struggle by college athletes needs to take aim at the NCAA’s role as an oppressive and exploitative force.

### XT: Solvency – Amateurism

#### Amateurism sustains its exploitative logic by denying athletes a voice in their own lives. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

As mentioned in the introduction, according to the NCAA Manual, am- ateurism, as defined by the NCAA, declares that¶ Student-athletes shall be amateurs in an intercollegiate sport, and their participation should be motivated primarily by education and by the physical, mental, and social benefits to be derived. Student participation in intercollegiate athletics is an avocation, and student- athletes should be protected from exploitation by professional and commercial enterprises.6¶ This ideological system has prevailed, undergirds the governance of col- legiate athletics, and is a primary means of social control. Under this ide- ology, athletes’ resources (skills and images) are extorted while they are restricted to an antiquated principle, which regulates their behavior and determines their benefits.7¶ Amateurism has also positioned PWIs within a paternal relationship with athletes, where collegiate athletes are provided with security and protection “from exploitation by professional and commercial enter- prises.” Paternalism has been referred to as the “sweet persuasion” by Mary Jackman.8 Furthermore, Jackman suggests that¶ father authoritatively dictated all the behaviors and significant life- decisions of his children within a moral framework that credited the father with an assailable understanding of the needs and best interests of his children. They, in turn, accepted implicitly and absolutely the authority of their father—occasional bouts of independence were not unexpected, but never tolerated.9¶ Therefore, the decisions that govern the lives of collegiate athletes are made with an understanding of the needs and best interests of the ath- lete; thus, this assumes that these institutions know the interests and what is best for athletes. It is important to note that the limits of this analogy pivot on motives: a father’s love for his children is his motive for need to govern the behaviors and decisions of his children; whereas social control and economic exploitation are the motives of PWIs. This is especially evident when one examines the rules instituted and enforced that prevent athletes from benefiting from their talents and images beyond their yearly scholarships, or the rules that are instituted to exhibit complete control over their bodies rendering them powerless in the decision-making pro- cess that govern their lives.¶ A perfect example of NCAA efforts to protect athletes from exploi- tation by professional and commercial enterprises occurred with Jeremy Bloom. Jeremy Bloom was a collegiate football player for the University of Colorado and a world-class freestyle skier who was declared ineligible by the NCAA for receiving endorsements to offset expenses he incurred while training for the ‘06 Winter Games in Turin, Italy. The protection from exploitation by professional and commercial enterprises the NCAA provides prohibited him from any ownership of his identity, image, the product he produces, or any entrepreneurial ventures he may engage in beyond their respective sports. Therefore, the message the NCAA is sending is that they, and the corporations affiliated with them through sponsorship, endorsements, and outsourcing, are the only ones allowed to profit from the athletic talents and images of athletes.

### XT: Social Media Works

#### Social media gives athletes ample opportunity to challenge their institutions. Missouri and other examples prove – athletes need to use their platforms. Epstein 16

Adam Epstein JD and Kathryn Kisska-Schulze JD 26 J. Legal Aspects Of Sport 71 2016

As a direct result of the O'Bannon case and other outspoken current-and former student-athletes, the NCAA was essentially forced to make select changes in order to secure some level of respect in the court of public opinion. For example, contemporaneous to NU football players challenging the amateurism model of the NCAA, University of Connecticut basketball player Shabazz Napier's told reporters in April 2014 that he often went to bed "starving," prompting the NCAA to immediately pass legislation allowing for expanded year-round meals for athletes. 164 In a separate example, the NCAA recently granted more autonomy to Power 5 conferences [encompassing the Atlantic Coast Conference (ACC), Big 10, Big 12, Pac-12, and the Southeastern Conference (SEC)]. 165 Under this new model, NCAA Division I schools can offer scholarships covering the full cost of attending the university, coaches can no longer strip a student-athlete's scholarship funds for purely athletic reasons, and student athletes can borrow against future earnings when getting loss-of-value insurance. 166¶ At the 2016 NCAA Convention, the Power 5 conferences voted to loosen certain rules restricting how Division I baseball and men's basketball players can interact with professional sports teams, allowing basketball players to enter the NBA draft multiple times and permitting baseball players to hire agents. 167 Further, [\*102] new NCAA rules allow high school baseball players to hire agents without losing their NCAA eligibility whereas previously, if a high school player hired an agent, the NCAA considered him to no longer be an amateur athlete and therefore ineligible. 168 Finally, effective May, 2016, the NCAA passed a rule allowing athletic departments the opportunity to provide summer scholarship funds to full and partial student-athlete scholarship recipients. 169 Indeed, we believe it is reasonable to assume that many of these immediate changes by the NCAA may be directly related to the use of social media to manage the court of public opinion. 170¶ Claims of Economic Injustice and the Future¶ One area within its regulations that the NCAA has thus far refused to change, no matter the pressure exerted, is its fundamental principle of amateurism. 171 This principle ensures that student-athletes who are, or have been, paid to play are essentially permanently ineligible to compete in varsity athletic competition. 172 Although the issue of paying student-athletes received national fame during the 2013 college football season with former Texas A&M quarterback Johnny Manziel, perceptions of economic injustice in every form within the college athletic arena has garnered heavy public scrutiny. 173¶ [\*103] The disparity between the economic benefits received by student-athlete vis-à-vis both their conference commissioners and coaches is embarrassingly monumental and continues to widen as coaching salaries skyrocket amidst the perpetual debate over whether student-athletes should be paid at all. 174 For example, the University of Alabama (UA) head football coach Nick Saban is currently the highest coach in NCAA football history, earning more than $ 7 million per year while even the UA strength coach made $ 600,000 in 2015. 175 Mark Emmert, President of the NCAA, is a multi-millionaire, as are now Power 5 conference commissioners and school athletic directors. 176 Amid these staggering numbers, the NCAA rigidly maintains that student-athletes must view their participation in sports as an avocation only and as unpaid amateurs. 177¶ When UCLA signed the largest apparel deal in the history of college athletics with Under Armour in spring 2016, quarterback Josh Rosen sarcastically tweeted, "We're still amateurs tho . . . gotta love non-profits. #NCAA." 178 The year before, two Stanford University football captains sat out a week of summer workouts and meetings in protest over the University's delay in providing the players scholarship money. 179 The captains alleged that Stanford was late for the third summer in a row. 180 Thus, though the NCAA maintains that student-athletes must not be paid, the NCAA cannot legislate that the student-athletes must not have an opinion on issues that matter to them, particularly financial ones.¶ [\*104] In a similar example of where booming revenues in college sports may prompt allegations of economic injustice relevant to student-athletes, the College Football Playoff now generates $ 7 billion from ESPN over the course of a 12-year contract. 181 Basketball's March Madness tournament generates nearly $ 11 billion from CBS Sports and Turner Broadcasting over a 14-year TV and Web contract agreement. 182 Collegiate sports merchandising and licensing revenues exceed $ 4 billion a year, and select conferences have their own television networks, to include the Pac-12 Network, the Big Ten Network, and the Longhorn Network. 183¶ As pressure continues to mount over the debate about whether student-athletes should be characterized as employees of their institutions, there is budding momentum for student-athletes to turn to social media and the Internet to nationalize their protests, furthering boisterous movements which evolved from the earliest forms of race and inequality protests across college campuses. 184 Whether that same courage and momentum which early student-athletes' efforts originally conjured will continue into the future ultimately depends on the passion of the players involved, and the media outlets which they use to bolster their voices which, in many cases, only last as long as their athletic scholarship of four years in general, unlike those who work in the public or private sector. 185¶ Outside the U.S. judicial system forcing change to occur within intercollegiate sports programs, it is likely that near future NCAA bylaw or policy changes will be incremental at best. However, the newly-shaped spectrum of collective college athlete action successfully promoting change via use of Internet is certainly the next wave of the future. As the iGen class continues to penetrate college athletic programs, it is foreseeable that the use of social media to promote change will be the catalyst for NCAA reform moving forward. If recent history with the resignation of the UM president is any indication, the NCAA and member institutions must prepare for the influx of future student-athlete mobilization efforts using social media, and [\*105] ultimately decide whether the court of national public opinion will pressure the non-profit organization to ultimately mandate change within its Indianapolis-based headquarters and its coast-to-coast college athletic programs as well.¶ Conclusion¶ Following the 2015 resignation of University of Missouri President Tim Wolfe, the question of what student-athlete mobilization efforts may look like in the future prompts reasonable concern for the NCAA and its member institutions. Although history shows that not all mobilization efforts have proven to be as successful as the Missouri boycott, history proves that student-athletes have a powerful voice in promoting national debate and in many cases effectuating change. Specifically, this article demonstrates that throughout history student-athletes have assumed strong collective college athlete action, originating from the Willis Ward incident in Ann Arbor, to various Howard University protests, to protests over treatment of others based upon race. Individual actions over workers' compensation claims have almost universally failed; however, as have attempts to characterize student-athletes as employees in general such as the Northwestern University mobilization effort.¶ As a result of recent acts of activism by student-athletes, the NCAA has made significant changes to its bylaws while at the same time refusing to compromise its immemorial stance on amateurism. However, it is important to note that the Missouri football team's effort marks one of the most effective and passionate mobilization campaigns in recent college sports history, and may be the catalyst for reform within college athletic programs across the country. As the iGen class continues its social media savviness within the realm of college sports, both the NCAA and university athletic programs will be hard-pressed not to take into consideration the voices of a generation raised on Google, armed with the most powerful operating systems in history, and literally within the grasp of their # hand

### XT: Protests Work

#### Athletes have tremendous leverage and can work to change campus – Missouri proves. Hefferan 16

Hefferan, James [a JD, magna cum laude, from Wake Forest University in 2003. He is currently an Assistant Professor of Law at the Charlotte School of Law]. "Picking up the Flag: The University of Missouri Football Team and Whether Intercollegiate Student-Athletes May Be Penalized for Exercising Their First Amendment Rights." DePaul J. Sports L. & Contemp. Probs. 12 (2016): 44.

Finally, attention must be given to the implications of the Missouri situation on college sports in general, and--given its economic significance--college football in particular. Had the game against BYU been canceled, Missouri would have owed BYU $ 1 million pursuant to the schools' contract. n252 But the significance of the players' actions resonates far beyond the economic impact of a single game. The campus demonstrations had been underway for some time. However, once the football players became involved, the momentum of the protests rapidly grew, and the school president resigned within two days. n253 It makes sense that this should be so, given that the athletic department is the most powerful institution at the school, n254 and the football team its most powerful sport. n255¶ Nor are the Missouri players the only ones who have protested in recent years. In March 2015, University of Oklahoma football players walked out of spring practice and engaged in a silent march through campus after a video surfaced showing members of a university fraternity singing a song containing racial slurs. n256 In 2013, football players at Grambling State University staged a weeklong boycott over a variety of issues, including rundown facilities, unhealthy locker room conditions, improperly cleaned uniforms, long bus trips to road games, and coaching changes. n257 A majority of the players refused to board the bus to a road game against Jackson State [\*79] University, forcing the school to forfeit. n258 The players finally ended their boycott on the advice of their former head coach, who put them in contact with a local businessman who promised he would help fund updated facilities. n259 The university president indicated that the players would face no repercussions for the boycott, as the national attention had helped publicize the school's funding plight. n260 Even in the immediate aftermath of the Missouri protests, the men's basketball team at William Paterson University, a Division III school, walked off the court during pregame warmups--leaving their warmup shirts in a pile at the free throw line--to protest their longtime head coach being forced out by the school administration, resulting in a forfeit loss. n261¶ If the Missouri situation demonstrates anything, it is the power of student-athletes, particularly those in high profile sports, to affect social and political change on campus. In the aftermath of the boycott, Charles Harris, a sophomore defensive end on the Missouri football team, stated, "Let this be a testament to all of the athletes across the country that you do have power. It started with a few individuals on our team and look what it's become. Look where it's at right now. This is nationally known, and it started with just a few." n262 This power is based on the economic impact student-athletes have on their universities. Millions of dollars are invested in the labor of student-athletes. n263 As student-athletes, the players themselves are unable to make money, "but they . . . have the ability to make sure the school doesn't either, should they refuse to play any given Saturday." n264¶ [\*80] Given the power of intercollegiate student-athletes and the economic stakes involved, the Missouri boycott may very well become a catalyst for similar actions by other college teams. n265 If this is the case, one of the key factors in deciding whether the players' speech is constitutionally protected will be the attitude of the coaching staff. As the court noted in Hysaw, it is hard to conceive how actions undertaken with the complete support of the coaches can cause a material disruption to the team. n266 On the other hand, actions that do not have the support of the coaching staff are more likely to be reasonably forecast to cause a material disruption, and less likely to receive constitutional protection.¶ However, in further reflection of the true power of student-athletes, at least in revenue sports like football and basketball, coaches may have no realistic choice but to support their players should a substantial number of them choose to engage in social or political activism. Some coaches, like Coach Pinkel, may genuinely support their players. But even a coach that did not support his players' efforts would have to tread very lightly. Taking a stand in opposition to the players may cause a coach to lose current players to transfer, and, if the protest concerns racial issues like at Missouri, the coach could lose his ability to effectively recruit African-American players in the future, all of which could lead to diminished results and ultimately cost the coach his job. For a cautionary tale, one need look no further than the impact on the Wyoming football team in the aftermath of Williams v. Eaton. The school and coach may have won the litigation, but it proved to be a Pyrrhic victory. The football program lost its ability to recruit African-American players, the coach soon lost his job, and a once successful team spent decades mired in mediocrity. n267¶ In sum, the Missouri situation has provided intercollegiate student-athletes a glimpse into their true power. As this Article has shown, intercollegiate student-athletes at state schools who advocate for social and political change on their particular campus or in the broader world will know that in doing so, their coaches and schools [\*81] are unlikely to be able to constitutionally penalize them for exercising their First Amendment rights to freedom of speech, unless, at a minimum, those officials can reasonably forecast a material disruption. Moreover, the student-athletes may recognize the reality that coaches and school administrators may not even be willing to attempt to impose such sanctions in light of the consequences it may have on the program in the future.

### U/Q Add-On: Jim Crow

#### The relationship between college athletes and the NCAA is analogous to that of Jim Crow where they are exploited for a profit and left voiceless. Starkey 14

Starkey, Brando Simeo. "College Sports Aren't Like Slavery. They're Like Jim Crow." New Republic. October 31, 2014. Accessed February 16, 2017. https://newrepublic.com/article/120071/ncaa-college-sports-arent-slavery-theyre-jim-crow. SP

The slavery analogy, however, is wrong: It overstates and misdiagnoses the problem. The NCAA's rules don't mirror slavery but rather the Jim Crow South’s legal restrictions on black laborers. In other words, college athletes are exploited like blacks after slavery. In the decades following emancipation, blacks were denied the whole value of their labor and the opportunity to fully compete in the economic marketplace. Southern legislatures enacted laws that allowed former slave owners to limit the economic opportunities available to black workers and increase their own profits. This exploitation was allowed to continue because it harmed blacks, a politically and socially disfavored people. Racism, that is, allowed this labor-market cartel to remain. That bears a striking resemblance to college athletics today. So-called “student athletes” are likewise denied the whole value of their labor and the opportunity to fully compete in the economic marketplace. The NCAA enacted rules that allowed its member institutions to limit the economic opportunities available to college athletes and increase their own profits. This exploitation is allowed to continue because it supposedly benefits college athletes. The NCAA concocted the term “student-athlete” and wrapped this new phrase in a self-serving mythology that holds that college athletes who profit from their talent are distracted from what should be their first priority: getting a quality education. Many onlookers therefore accept the NCAA’s amateurism rules as proper. Paternalism toward “student athletes,” that is, allows this labor-market cartel to remain. The former slave owners, despite their constant attempts after the Civil War, could not enforce a cartel on their own. In spring of 1865, Virginia planters met at the Louisa County Courthouse to fix the price of black labor. They resolved not to pay more than $5 a month and rations, and blacks were to pay for their own clothing and healthcare. “We hope now that the scale of prices having been determined on,” the Richmond Republic reported, “the negroes will go promptly to work.” Such efforts continuously failed because the market for black labor was far too competitive. Southern legislatures, therefore, had to do what planters couldn’t do for themselves. The market for college athletes is similarly competitive, thus the NCAA has to maintain the cartel. Whereas the South used anti-black bigotry to keep its cartel alive, the NCAA uses paternalism. Before exploitation could ensue, though, the targets had to be denied a role in governing. After the Civil War, in late 1865 and early 1866, newly formed Southern legislatures enacted Black Codes. These laws applied only to freedmen, and, among other things, installed a series of economic regulations to establish a labor-market cartel. During Radical Reconstruction, when blacks voted and served in state legislatures, this cartel dismantled. But once Democrats recaptured the South, they reinstalled these economic regulations to exploit black labor. To keep blacks from voting by using the power of the state, Southern states drafted new constitutions that disenfranchised blacks mainly through literacy tests. These tests generally required a potential voter to read and understand any section of the state constitution in order to register. “There was a general understanding,” wrote historian Vernon Lane Wharton, “that the interpretation of the constitution by an illiterate white man would be acceptable to the registrars; that of a Negro would not.” The Fifteenth Amendment prevented Southern states from passing laws explicitly disenfranchising blacks. Unencumbered by such restraints—the Constitution affords no special protection to “student athletes”—the NCAA implemented a far cleaner solution to the same problem. The NCAA simply denies college athletes a voice in rulemaking, thereby leaving them, like blacks, without a role in the making and enforcement of rules. Voiceless, both groups had the value of their labor fleeced.

#### Like blacks during Jim Crow athletes are contractually tied down and what is needed is a movement against the NCAA. Starkey 14

Starkey, Brando Simeo. "College Sports Aren't Like Slavery. They're Like Jim Crow." New Republic. October 31, 2014. Accessed February 16, 2017. https://newrepublic.com/article/120071/ncaa-college-sports-arent-slavery-theyre-jim-crow. SP

Tampering rules in professional sports leagues are instituted pursuant to a collective bargaining agreement between owners and players. College athletes, however, had no such opportunity to bargain away such rights. This rule, therefore, prevents athletes from learning about better opportunities from competing institutions—perhaps more playing time or better coaching—information to which free laborers are entitled. Contract enforcement laws compelled laborers to fulfill their contract under the threat of punishment, typically a fine or imprisonment. Not only did these laws reduce competition for laborers, they helped curtail black laborers’ mobility by forcing them to work even if a better deal could be had elsewhere. The NCAA reproduces contract enforcement laws with its transfer rule policies. Division I football and basketball players seeking to transfer to another Division I school usually must first receive written permission from their current institution to speak to prospective schools. If granted that permission, after transferring, athletes must sit out a year before competing. If not granted permission, athletes can still transfer but must pay for school for a year before being eligible for an athletic scholarship. When blocking the transfer wishes of freshman women’s college basketball star Leticia Romero earlier this year, Kansas State sought to achieve the same ends as the drafters of contract enforcement laws: forcing performance. Romero couldn’t fund a year of school, saying that “that's something I can't do. My parents ... the situation in Spain is really bad right now. They could lose their jobs.” Kansas State ultimately relented, allowing her to transfer to Florida State. The NCAA, nevertheless, by punishing those breaking a contract, provides schools weapons to compel performance. Some will scoff at this comparison between the NCAA and Jim Crow South. Yet the NCAA, through its methods of exploitation, is actually far more effective at snatching money out of its subjects' pockets than even the former Confederacy. Indeed, when courts tossed out the most egregious disenfranchisement laws in the middle of the twentieth century, the NCAA took the Jim Crow South’s recipe and spent decades perfecting it. Now, college athletics need its own Civil Rights movement. Schools, coaches, television networks, and corporate sponsors have made a fortune off of college athletes' hard work. It's time those players were allowed to raise cotton for whomever they please.

### A2 Go to HBCU’s

#### There’s no existing infrastructure in place for those schools. They can’t get the same oppurtunities. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

It is unfortunate, but unless there is a resurgence of Black athletic talent re-migrating back to HBCUs, naysayers’ predictions of HBCUs athletic programs remaining mediocre at best appear imminent. Besides the financial challenges facing higher education, in general and HBCUs specifically, the athletic infrastructures (stadiums, arenas, athletic train- ing facilities) needed to attract and enroll blue chip athletes has not fully evolved. The athletic budgets of HBCUs pale in comparison to the athletic budgets of predominantly White National Collegiate Athletic Association (NCAA) Division I institutions (PWIs). For example, according to the Office of Postsecondary Education 2006–2007 Division I budget figures, Delaware State is the only HBCU that ranked among the top 200 (out of 339 schools), with an operating budget of $17,289,496; while Alcorn State ranks 337 out of 339 schools, with an operating budget of $3,172,348.15 It is hard to compete for recruits with PWIs that have operating budgets ranging from $46 million to $100 million. Furthermore, it is also diffi- cult to compete with PWIs without increasing commercialization (i.e., corporate sponsorship, media rights sales, sell of licensing products, etc.), which has prompted criticism from the purveyors of academic integrity. Furthermore, as we will see in later chapters, increased commercialization comes at a risk of alienating and exploiting the athlete and threatens the academic integrity and mission of the institution.

### A2 Bad Analogy

#### Analogy of the new planation best captures their situation – our analogy accounts for scholarship on colonialism and recruitment process. Hawkins 17

Billy Hawkins. “Interest Convergence: A Revolutionary Theory for Athletic Reform” From Critical Race Theory: Black Athletic Sporting Experiences in the United States edited Billy J. Hawkins¶ ￼Akilah R. Carter-Francique¶ Joseph N. Cooper

\*\*\*Quoting his own work so the he refers to himself in the 3rd person.

Hawkins contrasted this relationship with that of the colonizer and the colonized.43 Although for some, the colonizer/colonized or plantation model is a loose analogy, one of the fundamental principles of the plan- tation model is disequilibrium, where there is a disorientation, a loss of stability, in various aspects of an individual’s life: socially, economically, psychologically, culturally, and so on. The works of scholars who have addressed the practice of colonialism identify the process by which this relationship emerges and the significance of this relationship. For example, Memmi suggests that it is the colonizer who initiates this relationship and brings the colonized into existence for the sole purpose of benefitting economically from the labor or resources of the colonized.44 He further states that:¶ He [the colonizer] finds himself on one side of a scale, the other side of which bears the colonized man. If his living conditions are high, it is because those of the colonized are low; if he can benefit from plentiful and unde- manding labor and servants, it is because the colonized can be exploited at will and are not protected by the laws of the colony; if he can easily obtain administrative positions, it is because they are reserved for him and the colo- nized are excluded from them; the more freely he breathes, the more the colonized are choked.45¶ Thus, Hawkins suggests that because of the profit motive of the institu- tion, athletes are bought into this relationship, where the institution is the major benefactor.46 Furthermore, it is the recruitment process that first establishes this relationship.

## Frontlines: CP

### PICS Generic

#### O/V: PICs against affs that defend all speech are bad – moots 6 minutes of AC offense and there’s an infinite number of small things to PIC out of for hyper-specific speech scenarios – kills fairness. PICs are a voting issue – prevents my ability from generating substantive offense so evaluate before other flows

1. The case turns the pic – the PIC relies on the idea that there are safe spaces for black people witch never exits regardless of speech codes. Discussions of race requires feeling uncomfortable and the ability to piss off white people which the CP shuts down - Leonard and Porter

2. The CP doesn’t solve the aff – absolute legal recognition is key to ensuring that athletes won’t get shut down. Allowing for exceptions means that administrators will always use their power to silence black athletes. Things like players criticizing administrations for being ‘racist assholes’ would get censored instantly.

3. The CP doesn’t link to the – their evidence is about colleges kids generally but none talk about athletes which means that the 1AC o/w on specificity. Athletes aren’t going and posting hate speech on their social media.

#### 4. Reject the PICs attempt to blame bad individuals – punishing individual perpetrators perpetuates anti-blackness and shuts down structural analysis of problems. Leonard 14

David J. Leonard is an associate professor and chair in the department of critical culture, gender and race studies at Washington State University, Pullman, and the author of a forthcoming book on race, media and gun violence. <http://www.theblackscholar.org/a-national-pastime-antiblack-racism-and-moral-panics/> 9/20/14

It is an expert at racial moral panics, a truly exceptional world power when it comes to moral posturing, collective outrage, and the resulting finger pointing. From the culture wars of the 1980s to debates regarding hip-hop into the 1990s, from discourses around “black homophobia” and “black on black crime,” and far deeper into history, moral panics are often wrapped up discourses of blackness. James Baldwin spoke of this quintessential American tradition in 1960: “I think if one examines the myths which have proliferated in this country concerning the Negro.” Accordingly “beneath these myths a kind of sleeping terror of some condition which we refuse to imagine. In a way, if the Negro were not here, we might be forced to deal within ourselves and our own personalities, with all those vices, all those conundrums, and all those mysteries with which we have invested the Negro race” (quoted by Bouie)¶ Writing about the 1980s and the demonization of “welfare queens,” George Lipsitz (1995) identifies this history as one where “Americans produce largely cultural explanations for structural problems.” With a long history of scapegoating and locating moral imperatives and cultural impurities through bodies of color, it should come as no surprise that the release of video footage of then Ravens Running Back Ray Rice striking his then girlfriend Janay Palmer has sent America, from The Capital to the American media landscape, from NFL stadiums to Starbucks, into a perpetual state of moral outrage.¶ The effort to reduce social ills to individual failures, to individual pathologies, and cultural dysfunctions comes through a centering of blackness within these discourses. “What is forbidden in American culture often seems to be projected outward onto the outsider or scapegoat,” writes James (1996). “Blackness has come to represent sex and violence in the national psyche. Although they gain notoriety as the most infamous perpetrators of unrestrained criminality, African Americans are given little recognition in media, crime reports or social crusades as being victims.” The refusal to see or hear Janay Palmer, Kasandra Perkins and countless more makes this all too clear.¶ Directed at Rice (and several other players), and Roger Goodell for failing to properly control, discipline, and punish the NFL’s “out-of-control,” the moral panic feels less and less about intimate partner violence (IPV), hyper masculinity, a culture of violence, misogyny, or patriarchy, but instead yet another moment to locate social ills within the bodies of black men. Blackness, especially in the sporting world, is “legible” (Neal 2014) only as signifiers of dysfunctional, danger, criminality, and corruption. This has been the case with IPV, and equally evident in the aftermath of Adrian Peterson’s arrest. According to Jamelle Bouie, “It’s reminiscent of other conversations around broad-based behaviors or beliefs that become pathological and purely “black” when displayed by black Americans in elevated numbers.”¶ As black bodies are ubiquitously imagined as essentially disruptive, uncontrollable, as a source of “cultural degeneracy” the problem of IPV becomes not an American problem and not even one belonging to the NFL — but a problem of blackness. Blackness exists as “a problematic sign and ontological position” (Williams 1998, p. 140). The outrage resulting from Ray Rice reflects the logics of anti-black racism, perpetuating a culture that sees blackness as the problem, one that needs to be contained, purified, controlled, punished, and ultimately eliminated.¶ The outrage has little to do with the pervasive and endemic problem of IPV within the NFL and society as a whole. In a nation where 1 in 3 women report having experienced IPV, where 1 in 5 men admit to having committed violence against a partner, one has to wonder why now, why did Ray Rice prompt a national soul searching regarding the problem of IPV? In a nation, where the media and the court system routinely rationalize the prevalence of IPV through victim blaming and excuse making, forgive me if I ain’t buying this feigned outrage. The political power structure, particularly the GOP, should have a seat; they should delete their press releases and their demands for “zero tolerance” and simply look in the mirror. From its foot dragging with the reauthorization of the Violence Against Women Act to its budgetary PRIORITIES, it is clear that the political structure is perfectly fine with domestic violence. Combatting violence against women is not a priority, at least if it requires more than a press conference. In 2013, the National Domestic Violence Hotline was unable to answer “77,000 calls due to lack of resources.” And this isn’t the only example of how the GOP, and the Congress as a whole, has no moral standing with respect to IPV.¶ “The Republican romance with gun rights has proved deadly. More than 60 percent of women killed by a firearm in 2010 were murdered by a current or former intimate partner. The presence of a firearm during a domestic violence incident increases the likelihood of a homicide by an astonishing 500 percent, writes Katie McDonough. “The Republican-led assault on reproductive freedom has major implications for victims of domestic violence. Republican resistance to mandatory paid leave policies means that women who need time off to leave an abusive relationship or are hospitalized after a domestic violence incident can lose their jobs for missing work.” Congress and their friends at the NRA, like the NFL, is reflective of a culture of domestic violence and a complicit actor in the daily injustices experienced by all too many women and children in this society. In a nation where judges and police officers (“family violence is two to four times higher in the law-enforcement community than in the general population”) engage brutal acts of violence against women with impunity, where ESPN and other sports media, routinely mock and reduce women to dehumanized objects of consumption and ridicule, it is hard to believe in this feigned and surely short-lived outrage about Domestic Violence (DV).¶ The rampant hypocrisy, the racist moralism, and the scapegoating are equally evident in the types of “solutions” being proposed. In the face of rightful, even when misplaced, outrage, the NFL created a VP position in charge of “social responsibility” (to be filled by Anna Isaacson, the league’s current VP of community affairs and philanthropy) and hired three domestic advisors (Lisa Friel, Jane Randel and Rita Smith). Goodell, the benevolent white father figure whose primary responsibility was disciplining the league’s “unruly” black bodies had failed. In this context, 4 white women have replaced him. The focus on punishment, the embracing of the language of mass incarceration, and the moral posturing should give us pause in that the logics, tropes, and policies that have compelled mass incarceration are the center of the NFL’s reclamation project. The focus on individual accountability (which needs to be part of the process) at the expense of collective transformation and societal cultural change, the concern with response rather than dealing with root causes highlights the systemic failures to truly address intimate partner violence.¶ At its core, the post-Ray Rice discourse is not about IPV; it is not about concern for Janay Palmer or collectively saying #blackwomenslivesmatter or #womendeservejustice. It is about racial paternalism and the historic efforts to imagine sports not as exploitation, big business, profits, and a health risk, but one of disciplinarity and moralism. Ray Rice and Adrian Peterson put these narrative rationalizations in question, resulting in panic and further reimagination of sport as a source of good. According to King and Springwood (2005), “Perhaps such public concerns and panics are best understood as a form of racial paternalism in which white America struggles to come to terms with its (exploitative) enjoyment of the African American athlete by advancing a linkage between the ostensibly moral and disciplinary space of … big time sports.”¶ The selective outrage at players within the NFL (and the league for not controlling them) and not Major League Baseball or Hollywood (Charlie Sheen) or mainstream music industry, or the police, or the military, or every American institution is revealing. The silence regarding Hope Solo, who stands accused of domestic violence, playing for the U.S. National Team is telling: whiteness matters.¶ So is the lack of moral outrage for Renisha McBride, Aiyana Jones, Rekia Boyd, and countless others. One has to look no further than Marissa Alexander, who faces 60 years in prison for firing a warning shot against an abusive husband whose history of violence has been well-documented, to understand the nature of today’s moral panic. One has to look no further than at the thousands of women locked up for defending themselves against an abusive and violent partner. America’s (so-called) moral center bends not toward, but away from the arc of justice. It is guided by racism and sexism; its compass is profit before people. We need a new compass not a new policy; a moral center of justice not more of the same: we need a new pastime

#### The PIC perpetuates a double standard – athletes are beloved on the field, but off the field they are subjected to cultural tropes used to control their bodies. Collins 05

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Sprewell, other Black basketball players, and Black people in hip-hop¶ culture signal a reworking of historical representations of Black masculinity,¶ ironically, by using those very same representations in new ways.¶ Historically, African American men were depicted primarily as bodies¶ ruled by brute strength and natural instincts, characteristics that allegedly¶ fostered deviant behaviors of promiscuity and violence. The buck, brute,¶ the rapist, and similar controlling images routinely applied to African¶ American men all worked to deny Black men the work of the mind that routinely translates into wealth and power. Instead, relegating Black men¶ to the work of the body was designed to keep them poor and powerless.¶ Once embodied, Black men were seen as being limited by their racialized¶ bodies.¶ In the current context of commodified Black popular culture, the¶ value attached to physical strength, sexuality, and violence becomes reconfigured¶ in the context of the new racism. In some cases, the physical¶ strength, aggressiveness, and sexuality thought to reside in Black men’s¶ bodies generate admiration, whereas in others, these qualities garner fear.¶ On the one hand, the bodies of athletes and models are admired, viewed as¶ entertaining, and used to sell a variety of products. For example, Keith¶ Harrison, an African American male model for the Polo clothing line,¶ never speaks but symbolizes a Black male body that should be admired.¶ Similarly, the hip-hop magazine Vibe relies heavily on Black male models¶ and athletes to sell gym shoes, clothes, CDs, and other trappings of hiphop¶ culture. On the other hand, the image of the feared Black male body¶ also reappears across entertainment, advertisement, and news. As any¶ Black man can testify who has seen a purse-clutching White woman cross¶ the street upon catching sight of him, his physical presence can be enough¶ to invoke fear, regardless of his actions and intentions. This reaction to¶ Black men’s bodies emboldens police to stop motorists in search of drugs¶ and to command Black youth to assume the position for random street¶ searches. Racial profiling is based on this very premise—the potential¶ threat caused by African American men’s bodies. Across the spectrum of¶ admiration and fear, the bodies of Black men are what matters.¶ In this context, the contested images of Black male athletes, especially¶ “bad boy” Black athletes who mark the boundary between admiration and¶ fear, speak to the tensions linking Western efforts to control Black men,¶ and Black men’s resistance to this same process. Athletics constitutes a¶ modern version of historical practices that saw Black men’s bodies as needing¶ taming and training for practical use. Given the small numbers of¶ Black men who actually make it to professional sports, the visibility of¶ Black male athletes within mass media speaks to something more than the¶ exploits of actual athletes. Instead, the intense scrutiny paid to sports in¶ general, and to basketball players in particular, operates as a morality play¶ about American masculinity and race relations. Black athletes, and their¶ varying degrees of acceptance and rejection of the types of social scripts held out by Carlesimo, become important visual stages for playing out the¶ new racism. In essence, the myth of upward social mobility though sports¶ represents, for poor and working-class Black men, a gender-specific social¶ script for an honest way out of poverty. Its rules are clear—submit to¶ White male authority in order to learn how to become a man.¶ Spectacle is an important component of the depiction of Black athletes,¶ especially in the current climate of mass media entertainment and¶ advertising.6 Boxing has long provided this type of spectacle for American¶ audiences. Black boxers in particular are seen as inherently violent and in¶ need of “trainers” who can focus their talent toward victory in the ring.¶ Whereas a string of seemingly violent Black men have provided brutal¶ spectacles for boxing fans, boxer Mike Tyson elevated the image of the¶ Black brute to new levels. Ironically, Tyson also became a hero within hiphop,¶ representing, according to Nelson George, “a bare-chested, powerful¶ projection of the dreams of dominance that lay thwarted in so many¶ hearts.”7 As a result of his physical prowess in the ring and because his¶ force and irreverence earned respect, Tyson is mentioned in scores of rap¶ records. At the same time, Tyson’s behavior in the ring after serving a¶ prison term (for biting off part of another boxer’s ear) makes him a suspect¶ hero. Moreover, Tyson’s history of domestic violence and his rape conviction¶ suggest that the spectacle Tyson provides for White and Black audiences¶ alike may be as much about gender and sexuality as about race.8

#### Reject their criminalized approach – it will always get reverse enforced. Collins 05

PATRICIA HILL COLLINS [Patricia Hill Collins (born May 1, 1948) is a Distinguished University Professor of Sociology at the University of Maryland, College Park. She is also the former head of the Department of African-American Studies at the University of Cincinnati, and a past President of the American Sociological Association Council.]. BLACK¶ SEXUAL¶ POLITICS¶ AFRICAN AMERICANS, GENDER,¶ AND THE NEW RACISM from Chapter 5. <http://majorsmatter.net/race/Readings/Collins2.pdf> July 16, 2005

Some Black men’s bodies may be admired, as is the case for athletes,¶ but other Black male bodies symbolize fear. Historical representations¶ of Black men as beasts have spawned a second set of images of that center¶ on Black male bodies, namely, Black men as inherently violent, hyperheterosexual,¶ and in need of discipline. The controlling image of Black¶ men as criminals or as deviant beings encapsulates this perception of Black¶ men as inherently violent and/or hyper-heterosexual and links this representation¶ to poor and/or working-class African American men. Again, this¶ representation is more often applied to poor and working-class men than¶ to their more affluent counterparts, but all Black men are under suspicion¶ of criminal activity or breaking rules of some sort.¶ This image of Black male deviancy crystallized in criminality is far¶ from benign—the United States incarcerates more Black men than any¶ other country. Whereas Black men constitute 8 percent of the U.S. population,¶ they comprise approximately 50 percent of the prison population.¶ By any measure, the size of the U.S. inmate population is enormous—the¶ rate of incarceration in the United States is about 727 prisoners per¶ 100,000 people. The vast majority of other countries incarcerate far fewer¶ people. Most European countries, for example, imprison fewer than 100¶ people per 100,000 residents, a rate more than seven times lower than that¶ of the United States.21¶ Covering up incarceration on such a mass scale requires powerful¶ media images that reward poor and working-class Black youth who submit¶ to White male authority by using athletics for honest upward social mobility,¶ and punish others who do not. When it comes to representations of¶ Black male deviance, several important variations exist. The thug or¶ “gangsta” constitutes one contemporary controlling image. The thug is¶ inherently physical and, unlike the athlete, his physicality is neither¶ admired nor can it be easily exploited for White gain. The “gangsta” may¶ be crafty, but the essence of his identity lies in the inherent violence asso-ciated with his physicality. Media representations of African American¶ men as thugs grew in the post–civil rights era. Alan Iverson basically took¶ the “thug” images out of the ghetto and inserted it onto the basketball¶ court.¶ Mass media marketing of thug life to African American youth diverts¶ attention away from social policies that deny Black youth education and¶ jobs. It also seems designed to scare Whites and African Americans alike¶ into thinking that racial integration of seemingly poor and working-class¶ Black boys (the allegedly authentic Blacks) is dangerous. Who wants to live¶ next door to a thug or sit next to one in school? In this context, the phenomenon¶ in which young African Americans seemingly celebrate elements¶ of thug life seems counterintuitive because looking and/or acting like a¶ thug attracts discriminatory treatment.22 Yet the depiction of thug life in¶ hip-hop remains one of the few places Black poor and working-class men¶ can share their view of the world in public. Raps about drugs, crime,¶ prison, prostitution, child abandonment, and early death may seem fabricated,¶ but these social problems are also a way of life for far too many Black¶ youth.23

### A2 White people PIC

#### The PIC doesn’t solve the case – it cedes political power to administrators to determine who is black. All our uniqueness ev proves that censorship decisions will be made in the political interests of admin, which means the counterplan will get misapplied in grey areas.

#### Independently, authenticity tests for blackness get misapplied to oppress students in other ways. Admin choosing a definition of blackness lets them perpetuate their power. Johnson 03

Johnson, E. Patrick. Appropriating blackness: Performance and the politics of authenticity. Duke University Press, 2003.

The title of this book suggests that ‘‘blackness’’ does not belong to any one individual or group. Rather, individuals or groups appropriate this complex and nuanced racial signifier in order to circumscribe its boundaries or to exclude other individuals or groups. When blackness is appropriated to the exclusion of others, identity becomes politi- cal. Inevitably, when one attempts to lay claim to an intangible trope that manifests in various discursive terrains, identity claims become embattled, or as noted in the quotation above by Baldwin, ‘‘color’’ or ‘‘blackness’’ becomes a ‘‘dangerous phenomenon.’’ Because the con- cept of blackness has no essence, ‘‘black authenticity’’ is overdeter- mined—contingent on the historical, social, and political terms of its production. Moreover, in the words of Regina Bendix: ‘‘the notion of [black] authenticity implies the existence of its opposite, the fake, and this dichotomous construct is at the heart of what makes authenticity problematic.’’4 Authenticity, then, is yet another trope manipulated for cultural capital.¶ That said, I do not wish to place a value judgment on the notion of authenticity, for there are ways in which authenticating discourse enables marginalized people to counter oppressive representations of themselves. The key here is to be cognizant of the arbitrariness of authenticity, the ways in which it carries with it the dangers of fore- closing the possibilities of cultural exchange and understanding. As Henry Louis Gates Jr. reminds us: ‘‘No human culture is inaccessible to someone who makes the effort to understand, to learn, to inhabit another world.’’5¶ When black Americans have employed the rhetoric of black au- thenticity, the outcome has often been a political agenda that has ex- cluded more voices than it has included.6 The multiple ways in which we construct blackness within and outside black American culture is contingent on the historical moment in which we live and our ever- shifting subject positions. For example, black Americans, whose vo- cality, leadership, and rhetoric flourished at the historical moment in which they lived, contested popular constructions of blackness in order to further their own political agendas and occasionally to stake out a space from which to argue for the inclusion of other signs of ‘‘blackness.’’¶ Indeed, if one were to look at blackness in the context of black American history, one would find that, even in relation to national- ism, the notion of an ‘‘authentic’’ blackness has always been contested: the discourse of ‘‘house niggers’’ vs. ‘‘field niggers’’; Sojourner Truth’s insistence on a black female subjectivity in relation to the black polity; Booker T. Washington’s call for vocational skill over W. E. B. Du Bois’s ‘‘talented tenth’’; Richard Wright’s critique of Zora Neale Hurston’s focus on the ‘‘folk’’ over the plight of the black man; Eldridge Cleaver’s caustic attack on James Baldwin’s homosexuality as ‘‘anti-black’’ and ‘‘anti-male’’; urban northerners’ condescending attitudes toward rural southerners and vice versa; Malcolm X’s militant call for black Ameri- cans to fight against the white establishment ‘‘by any means nec- essary’’ over Martin Luther King Jr.’s reconciliatory ‘‘turn the other cheek’’; and Jesse Jackson’s ‘‘Rainbow Coalition’’ over Louis Farra- khan’s ‘‘Nation of Islam.’’ All of these examples belong to the long- standing tradition in black American history of certain black Ameri- cans critically viewing a definition of blackness that does not validate their social, political, and cultural worldview. As Wahneema Lubiano suggests, ‘‘the resonances of [black] authenticity depend on who is doing the evaluating.’’7¶ White Americans also construct blackness.8 Of course, the power relations maintained by white hegemony have different material ef- fects for blacks than for whites. When white Americans essentialize blackness, for example, they often do so in ways that maintain ‘‘white- ness’’ as the master trope of purity, supremacy, and entitlement, as a ubiquitous, fixed, unifying signifier that seems invisible.9 Alter- nately, the tropes of blackness that whites circulated in the past— Mammy, Sapphire, Jezebel, Jim Crow, Sambo, Zip Coon, pickaninny, and Stepin Fetchit, and now enlarged to include welfare queen, pros- titute, rapist, drug addict, prison inmate, etc.—have historically in- sured physical violence, poverty, institutional racism, and second- class citizenry for blacks.¶ An even more complicated dynamic occurs when whites appro- priate blackness. History demonstrates that cultural usurpation has been a common practice of white Americans and their relation to art forms not their own. In many instances, whites exoticize and/or fetishize blackness, what bell hooks calls ‘‘eating the other.’’10 Thus, when white-identified subjects perform ‘‘black’’ signifiers—norma- tive or otherwise—the effect is always already entangled in the dis- course of otherness; the historical weight of white skin privilege nec- essarily engenders a tense relationship with its Others.

#### This outweighs their net benefit – essentialism constructs hierarchies of blackness that relegate other black struggles to the margins and is self-defeating. Pabst 03

Pabst, Naomi [assistant professor of African American studies and American studies at Yale University]. "Blackness/mixedness: Contestations over crossing signs." Cultural Critique 54.1 (2003): 178-212.

Questions of black/white interraciality are also questions of essentialism, authenticity, difference, and belonging. Similarly, these latter issues are central to overlapping black discourses of pluralism, feminism, queerness, and diaspora. These discourses are, like black/white interracial ones, regulated, disciplined, and punished by being cast as inauthentic, as "white" and/or "white-like." Black feminists have had to contend with allegations that they are engaged in a white women's agenda that is irrelevant for, if not damaging to, blacks collectively. Those who have called out black homophobia and centralized black gay, lesbian, bisexual, and transgender issues have [End Page 188] been accused of mimicking, even promoting, unacceptable white ways. Those who have addressed the reality of a long-existing and ever-enlargening black middle class have been dismissed as elitists catering to whites and whiteness. And those who have attempted to cast blackness in a transnational light have been seen by some as whitewashed internationalists who fail to grasp the depth and magnitude of antiblack racism and the essence of African-Americanness locally.¶ What is important for my purposes here are the "chains of equivalence," to borrow Chantal Mouffe's terminology (Laclau and Mouffe 1986,100), and the overlaps between the articulations of black pluralism, feminism, queerness, and diaspora. Indeed, these articulations are not mutually exclusive and are often in fact inextricable, and what they share is the status of being policed and punished, banished to the racial outskirts, to inauthenticity, to whiteness. These discourses are all cognizant of the magnitude of overarching systems of white domination and the legacies of overt and covert racism in which we all remain enmeshed, and have insisted on the continuing importance of blackness as a political category. At the same time, these respective treatments of black difference also testify unapologetically to the ways in which blackness is regulated and homogenized such that marginalization within blackness becomes not only possible, but also a bona fide form of oppression. For the exclusions and hierarchizations of blacks within the category of blackness precisely reifies dominant power structures most blacks seek to dismantle. These issues of belonging or not belonging within blackness are brought to bear in provocative ways within writings on racial and cultural mixedness. For interraciality and transculturalism are locations within the sign of blackness that are rendered "invisible, untenable, and/or fraudulent," to borrow George Hutchinson's phrase (1997, 330).¶ Meanwhile, the prevailing discourses of difference within blackness also share a common disavowal, repression, and amnesia about mixed-race blackness. Very rarely are issues of mixed race treated directly within black feminism, black queer, black diaspora, and black pluralist discourses, though the issues of color-line crossing and black-boundary transgression often lurk there awkwardly, unaddressed or inadequately addressed. On the one hand, then, mixed race is a site of amnesia. But such forgetting is active and ongoing, mandating [End Page 189] the "consistent expenditure of force" that Gregory Stephens cautions his readers about in On Racial Frontiers (1999, 27). Emplotting Freud's notion of the return of the repressed into the realm of racial mixedness, Stephens argues that "the greater force we use in repressing a forbidden or taboo subject or psychic content, the greater will be the force of its return, often in mutated or disguised form, in unexpected places and unanticipated moments" (27). This brings us to the other hand, then, the coterminous fact that interraciality is contended with, and not altogether infrequently, but usually dismissively, in the service of active repression à la Freud. Mixedness is cast as—among other things—inauthentic, irrelevant, tragic, and a site of unmitigated privilege within blackness. All of these assumptions serve to curtail a serious treatment of interraciality and the taking seriously of mixed-race subjectivity, and as such, they reify long-standing taboos around mixed-race subjectivity as a social location and as a site for critical excavation. Even the fact that this topic is so often met with loud proclamations of the inherent blackness of mixedness or the inherent mixedness of blackness effectively paralyzes further, more probing discussion of mixedness and blackness as converging, coconstituting signs.¶ The last antimiscegenation laws were taken off the books as recently as 1967, though many Americans continue to find interracial relationships deeply troubling. There is a parallel, then, that many have noted, between interracial and same-sex relationship taboos. Interracial marriages are now universally legal, which is, of course, not yet the case for gay and lesbian couples. Yet on the de facto level, members of interracial couples still sometimes experience societal or familial pressure to closet the relationship. They also risk, in some cases, social sanction and familial estrangement or disowning. In her cutting-edge work on issues of race and sexuality in prisons, Angela Davis has noted that the state has traditionally been less alarmed about same-gender sexual activity among inmates than interracial couplings among inmates. Marlon Riggs's 1994 film Black Is ... Black Ain't treats the diversity within blackness across lines of sexuality, gender, class, language/dialect, sociopolitical persuasion, and skin color. Riggs's treatment of creolité, light-skinnedness, and the legacy of mixed heritage among African-Americans never extends into the loaded terrain of first-generation mixed-race identity as it overlaps [End Page 190] with blackness, nor does he mention that his own longtime significant other was white, despite foregrounding the issue of homosexuality throughout the film. Race mixing is acknowledged more readily if it happened in the past and if it is likely that the interaction was forced rather than freely chosen. One woman I know reflects a broader trend when she expresses the insult she feels when her golden-brown skin, blue eyes, and sandy blonde hair cause her to be "mistaken" for interracial. A self-proclaimed light-skinned pedigree black, she is offended by the suggestion that she might be mixed. To those who ask, she pridefully relates that there has been no mixing in her family tree for many, many generations.

#### PIC cedes the economic aspects of exploitation - white students are also economically exploited which fosters solidarity. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

White athletes can also be allies when it comes to the shift of economic and political power from the hands of NCAA and institutional officials. Both groups are definitely exploited economically and can benefit in uniting to overthrow economic exploitation. Despite the different struc- tural positions Black athletes and White student athletes hold as laborers, they can both benefit from united efforts aimed at having a voice into the expenditure of the revenues they generate and in creating ways they may be compensated beyond the yearly grant-in-aid (athletic scholarship). The option of compensating student athletes beyond athletic scholarships is an emancipatory strategy that is a viable option in the process of decoloniza- tion and can take the form of increasing scholarship amounts to meet the cost of living expenses and travel. As the commercialization of collegiate sport increases, compensating athletes will become a logical alternative to receive a desired outcome and to minimize illegal activity.

#### Kills the effectiveness of athletes to connect with other social groups that have political power on campus, which dilutes the effectiveness of their speech. Hawkins 17

Billy Hawkins. “Interest Convergence: A Revolutionary Theory for Athletic Reform” From Critical Race Theory: Black Athletic Sporting Experiences in the United States edited Billy J. Hawkins¶ ￼Akilah R. Carter-Francique¶ Joseph N. Cooper

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A final example of employing interest convergence proactively can be found in the case of the University of Missouri football players. As men- tioned earlier in this chapter, this case speaks to the power athletes have in using their presence and publicity to invoke change on campus, or at least draw national media attention. The threat of “work” stoppage from these athletes drew considerable attention in the national media because it would have cost the university millions of dollars. This price tag was enough to invoke action in the best interest of both parties. In this case, the resignation of the president, Tim Wolfe, and the stepping down of Chancellor R. Bowen Loftin were the beginning stages of invoking justice because of these administrators’ blatant negligence in addressing racially charged incidents that were occurring on campus.¶ The effectiveness of athletes using interest convergence as a revolution- ary strategy to invoke justice requires a collective effort from both White and Black college athletes, and in some cases, members of the larger stu- dent body. Several of the issues sought in reform efforts, such as keeping scholarship values in line with the cost of tuition, compensation for sport- related injuries beyond their eligibility, and so on, can all be addressed if athletes collectively voiced their opinion through work stoppage or other political means; for example, uniting with the efforts of All Players United or organizations like NCPA.¶ Similar to other movements that sought reform, whether based on race, gender, or labor reform, the threat to the economic motives and gains of capitalist institutions warrants attention and forces them to act accord- ingly. College athletes cannot rely on a top-down approach to address their athletic reform needs. Employing interest convergence as a revolu- tionary theory, college athletes can be proactive in using their publicity and collective power in combating acts of injustices that occur nationally, campus-wide, and/or athletic-related.¶ CONCLUSION¶ The effort to implement grassroots reform through athletic activism requires the collective efforts of blue chip athletes, specifically, and ath- letes in revenue generating sports, in general, who are willing to forego the temporary gains for long-term change. In the spirit of activism, sac- rifice and acts of selflessness are required. The history of activism further documents how individuals were willing to forego individual benefits to ensure the benefits of their posterity (e.g., whether it was during the abo- litionist movement, women’s suffrage movement, civil rights movement, etc.). The application of the critical race tenet of interest convergence in a proactive manner provides a revolutionary theory to empower student athletes in revenue generating sports and reduce the exploitation that exists when there is an imbalance in athletic expenditure and academic achievement. The proactive use of this tenet also encourages student athletes in rev- enue generating sports, specifically, to obtain legal expertise prior to sign- ing documentation that waives their rights to their images and likenesses for the sake of amateurism. Again, with the understanding that the ath- letes’ and university’s interests are intricately interwoven and that they share a symbiotic relationship, athletes will be better equipped in negotiat- ing the terms of their tenure at these institutions.¶ Moving CRT from an analytic theoretical framework to a revolution- ary theoretical framework is useful for grassroots athletic reform. Athletes cannot longer absolve themselves of the power they have in their rela- tionship with the university and within the intercollegiate athletic com- plex. The united efforts demonstrated at Northwestern University and the University of Missouri scratch the surface of the collective power athletes in revenue generating sports, specifically, can command; whether it is sparking national debate around the unionization of athletes or forcing university administrators to address racist practices latent in culture of universities.¶ Reform in collegiate athletics will not move beyond the token conces- sions sparingly allocated by the NCAA to appease the masses until agitation that significantly threatens the commercial interests of these conferences is employed. As long as there is a majority Black athletic labor class (Black male football and basketball athletes) generating revenue that is supporting the athletic experiences of students who are predominantly White, there is a level of comfort and inertia to making any significant changes, espe- cially under the current racial configuration. This wealth transfer where Black labor converts into White wealth has been a historical pattern in this country. These “educational” institutions, similar to other US institu- tions, continue the tradition in exploiting the Black body, whether it was economic exploitation that occurred during slavery, the system of share- cropping, from the high incarceration of Black males trapped in the prison industrial complex, and even with police brutality which justifies militariza- tion of police departments. Thus, there is a level of comfort in having the Black body serve the needs of the White establishment. Therefore, trying to appeal to the moral consciousness of administrators, commissioners, and presidents of the power five conferences and the NCAA administrators who governs these institutions or waiting for them to be altruistically moti- vated to reform this system has proven a minimally successful endeavor.

### A2 Academic Improvements

#### Increasing academic standards without speaking out against broader cultures of racism dooms the counterplan and penalizes the athletes. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

The proposed recommendations and those that are instituted regard- ing initial eligibility, admission, academic standards, APR, etc, within the current context and given the academic preparation of many athletes, has done more in penalizing the victims, rather than motivating them to excel academically. The object of decolonization in intercollegiate athlet- ics is to empower, where every academic resource necessary is available for athletes recruited into the athletic labor pools; especially when the rate of “special” admits (sometime referred to as presidential admits or fac- ulty sponsorships) are increasing and are becoming indispensable on many of the top football programs in the nation. For example, Mark Alesia reported the following regarding “special admits”:¶ Many of the nation’s largest universities rely on special admits—stu- dents admitted under exceptions to normal admission standards for reasons including “special talent”—to stock their football teams. . . . At these schools, the percentage of special admits among students over- all is extremely small. The disparity can be stark: The University of California in 2004 reported that 95 percent of its freshman football players on scholarship were special admits, compared with 2 percent of the student body; Texas A&M in 2004, 94 percent to 8 percent; and Oklahoma in 2002, 81 percent to 2 percent.53¶ Clearly, these athletes are at a disadvantage from their first day and in legit- imately meeting the progression requirements instituted by the NCAA.¶ Significantly altering institutional arrangements are necessary, if the NCAA and its member institutions are truly concerned with adhering to its shared belief in and commitment to its core purpose:¶ to govern competition in a fair, safe, equitable, and sportsmanlike manner, and to integrate athletics into higher education so that the educational experience of the student-athlete is paramount.54¶ Meaningful alterations are necessary if they are truly willing to practice the idea that:¶ The overwhelming majority of student-athletes will never earn a dime as a professional athlete. That’s why the terms “student” and “athlete” are synonymous within the NCAA: When the athlete can no longer play, the student can still succeed.55¶ Therefore, it seems illogical to bring athletes to academic institutions that are academically unprepared, place enormous athletic time demands on them, and expect them to compete with the regular student body. This is clearly a disaster waiting to happen and violations waiting to occur. Too often I have had to encourage athletes that enter my class that I know just left some early morning training or practice to make sure they keep their fellow team member awake in class. The quality of their educational expe- riences diminishes when they are academically unprepared, pushed to their limits athletically, and tired. So when they are “in season” (if there is such a time where they are out of season), the window of opportunity to achieve a quality educational experience is challenged by athletic time demands.

#### The solvency deficit outweighs – we need a cultural shift before piecemeal reform. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

Unfortunately, the issue of reforming intercollegiate athletics is a bit misguided because as it relates to initial eligibility, academic standards, progression, and achievement, because, as major pieces of the reform movement, these issues target the wrong stage in the process. By the time an athlete arrives at the university with low academic credentials or through special admits, s/he is behind and will remain behind during his/her tenure at that institution. The ability to “catch-up” academically is only possible with the right infrastructure and a sufficient amount of time; however, the athletic time demands make it impossible for athletes to make meaningful strives in keeping up with their cohort of students and excelling academically. Even adhering to the 20 hours a week is unre- alistic and loosely enforceable.¶ One of the reasons is because you can limit the practice times, alter weight-lifting schedules, and time analyzing film, but the hours mentally absorbed by ones respective sport is hard to regulate. For example, I com- peted at a small private school that on a good week, when we were on a winning streak, happened to be broadcast on the radio (yes, I said the radio, and this was in the late eighties, early nineties—big-time, right). In classes on a game day, I was only there in physical form; my mind was absorbed with strategies to employ given a variety of situations and preoc- cupied with anxiety and fears. I can only imagine what these athletes are thinking in class during the weeks their games are nationally televised. I have personally witnessed that hazed look from athletes in my classes the week of the big game, or in some cases the first part of the week after a big game; their bodies were occupying a seat in my class, but their minds were executing plays and their bodies were battling anxieties. When you combine these factors together, the end result is unfavorable and has been for athletes in revenue generating sports, in general, and many Black male athletes, specifically.¶ Even the efforts of the propositions (Prop. 48 or 1650) that have been instituted to send a message to high school administrators, coaches, and parents of potential college athletes about academic preparation have not fully achieved desired outcomes. Therefore, reform must start within the communities these athletes migrate from, and with the school systems, these institutions have a pipeline to for athletic recruitment. Not merely in sending messages by raising academic standards to promote academic achievement. The reform must run deeper. If athletes with phenomenal athletic talent are being targeted by an athletic department during the seventh or eighth grade, along with inviting them to camps that provide them with the necessary training to develop their athlete talents, these athletes should receive the necessary academic training to develop their intellectual abilities to prepare them for admission into college. Adding an academic component that seeks to enhance specific academic skills (SAT preparation, study skills, time management, etc.) to athletic camps is an emancipatory strategy that could be implemented as a reform mea- sure. Furthermore, the same athletic infrastructures that are created in the communities where universities recruit require these institution’s invest- ments in creating academic infrastructures that produce academically pre- pared as well as athletically talented students. This will obviously alter the recruiting philosophy and process, because current recruiting limits will have to be expanded in order to ensure the academic preparation of potential recruits.

### A2 SAAC Committees

#### The SAAC is a hierarchal organization and reinforces harms of the AFF. Case turns and outweighs their net benefit. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

Although this is a noble attempt in providing athletes with a voice in the legislative process that impact their lives, I cannot help but be critical of the construction of SAAC because it creates another layer in the bu- reaucratic hierarchy of intercollegiate athletic governance. I also question it because the political power of the members is unfortunately determined by the councils that select them. Thus, the criterion for selection regulates the partisanship of the nominees and ultimately the members that are se- lected. In other words, radical agendas are marginalized because the pro- cess of selection neutralizes their voice.¶ Both Black male and female athletes have expressed to me their disgruntlement when voicing their concerns and complaints through this committee. A summation of their responses suggest that it lacks leverage in dealing with weighty matters involving coaching changes, the lost of scholarship due to coaching changes, scholarship distribution, racial issues, budget allocation for their respective sports (especially regarding women nonrevenue generating sports), and so on. For them, this committee serves as window dressing enticing some to feel that student athletes have a voice in the athletic governance process. It is basically a form of political camouflage to give the appearance that the welfare of student athletes is paramount.¶ The ideology of amateurism and the paternalistic nature of PWIs, in seeking to protect the athlete from commercial exploitation, fosters a culture of political powerlessness. The voice that SAAC provides on behalf of athletes is questionable because it is constructed for them yet members are selected for them by NCAA councils. Oppression can never be removed nor can a voice of the oppressed speak from the position of authenticity when the oppressor decides what to hear and determine who will speak on the oppressed behalf.¶ Speaking more specifically to political powerlessness of Black athletes at PWIs, the representation of Blacks in leadership positions must be taken into consideration. Again, there is no guarantee that an increase repre- sentation of Blacks in leadership positions will equate to Black athletes having a political voice at the legislative tables within intercollegiate athletics. Yet, the intercollegiate athletic landscape is demanding progres- sive changes to the racial demographics of administrative positions in in- tercollegiate athletic departments.

### A2 Black Representation on NCAA

#### Perm – representation alone does guarantee anything; the affirmative’s political empowerment is necessary. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

The politics of intercollegiate athletics that are relevant to this chapter specifically regard the decision makers who create policies, approve legislation, and enforce the policies that govern the lives of college athletes, in general, and Black athletes, specifically. In the case of Black athletes, their political voice is silenced because of the ideology of amateurism, the paternalistic nature of the NCAA and its member institutions2, and because there is a lack of representation at the leadership level—that is, athletic administrators and coaches. This chapter will examine how the ideology of amateurism and paternalism and the lack of representation in leadership positions consign Black athletes to positions of political pow- erlessness. It will examine the leadership structures of the NCAA and its member institutions to see how it is a microcosm of the leadership struc- ture of the larger U.S. society.¶ It is important to note at the onset that increase representation does not equate to having a voice in the decision-making process. Remember colonial rule involves governance where political decisions are made for the colonized without their input and often with the aide of indirect rule. Also, remember that the process of indirect rule is a system where the dominant group rules the subordinate with leaders from the subordinate group; therefore, leadership among the colonized is co-opted by the colo- nizer and become minions that answer to the dominant group.¶ Furthermore, efforts to create greater representation of Blacks in lead- ership positions to provide Black athletes with a voice can also create what Manning Marable refers to as “symbolic representation” where, in the case of the Black community, there “is a belief that if an African American receives a prominent appointment to government, the private sector, or the media, then [B]lack people as a group is symbolically empowered.”3 The fallacy to this thesis emerged when, as Marable states,¶ A new type of African-American leadership emerged inside the public and private sectors, which lived outside the black community and had little personal contacts with African American.4¶ Therefore, “a Black face in a high place” has not always equaled change in Black communities or for Black people. For example, the election of Justice Clearance Thomas to the Supreme Court represented “a Black face in a high face” yet it also revealed, as Marable suggest, “the inherent contradictions and limitations of simplistic, racial-identity politics.”5 Similarly, other levels of Black leadership in the post–civil rights era chart the disconnectedness some Black leaders have with the lives and interests of Black people. However, authentic racial representation will move be- yond symbolic empowerment and produce effective empowerment that transforms the powerless of Black athletes into being active and proactive participants in the political process that impact their lives. Thus, changing the leadership structures by increasing Black representation of the NCAA, university administrators, athletic departments, and athlete governing bodies, does not guarantee a change in political empowerment for Black athletes. Yet, it improves on the current state of affairs where their voice is completely mute.¶ With that said, developing an understanding of ideological and struc- tural issues that nourish the current political landscape of intercollegiate athletics is paramount to diminishing political powerlessness among Black athletes. The next section will address the ideology of amateurism and pa- ternalism as means to maintaining social control and ownership of means of production, where the revenue generated by athletes’ labor and image or identity is controlled by athletic administrators campaigning to have the interest of the athletes at the heart of their decision-making process.

### A2 Abolish NCAA/Abolish sports

#### Perm do both – the counterplan isn’t competitive. We spec student athletes, not a regulatory organization.

#### And the plan is key to counterplan solvency – even without ncaa they still need rights.. Waldron 13

Travis Waldron 1/25/13 [Travis Waldron is a reporter/blogger for ThinkProgress.org at the Center for American Progress Action Fund.¶ ] <http://www.alternet.org/corporate-accountability-and-workplace/outrageous-exploitation-college-athletes-finally-coming-end>

The idea that the biggest schools could abandon the NCAA was little more than backroom speculation during the recent college shake-ups, but it hit the mainstream when John Calipari, the charismatic head coach of the University of Kentucky men's basketball team, floated the idea last spring. Calipari, ever the provocateur, predicted that the large schools would consolidate into four major conferences and break away from the NCAA before his career was finished.¶ "They’re not going to be around long. The NCAA will not," Calipari told theSporting News. "Before I retire from coaching, they will no longer oversee college athletics. They will, but it won’t be the four power conferences—they’ll be on their own.”¶ A year before, Calipari had suggested that breaking away from the NCAA would allow the biggest schools to institute a stipend system the way they see fit, without it being derailed by the smaller schools or the NCAA. It would also, he said, result in far more money for the schools.¶ "All that television, all that revenue goes back to the schools," Calipari said. "You probably have $10 million that would go directly to the schools, to their academics and not have anything to do with athletics. You'd be able to give that living expense to all your athletes.”¶ School presidents are loath to discuss the idea of breaking away from the NCAA, though several have indicated that the largest football programs could soon split into their own division. But that doesn’t mean high-level administrators aren’t talking having quiet conversations about leaving the NCAA behind, especially given the amount of money at stake.¶ “That’s absolutely a feasible option,” Bilas said. “There are things being talked about now that have never been talked about before. The big schools want to operate the way they see fit. If they can do that inside the NCAA structure, I think that’s preferable. But of course they’re thinking about it. They did it in football. We’re talking billions of dollars here. The amount of money that’s at stake, of course they’re considering it.”¶ Such a break would not be unprecedented. In 1979, the College Football Association, a coalition of the biggest NCAA football programs, attempted to negotiate a national television contract for its members with NBC. The NCAA, involved in its own television negotiations, put its foot down, saying it alone had the authority to negotiate television contracts for members, which it restricted to no more than one televised game per year. The University of Oklahoma and University of Georgia sued the NCAA, claiming it had violated federal antitrust law, and the Supreme Court agreed. The ruling allowed the schools and their conferences to negotiate their own television rights deals and effectively split the largest schools from the NCAA for football purposes. (Even today, the NCAA does not regulate the championship and postseason for the Football Bowl Subdivision, college football’s top division. It is the only sport for which that is true.)¶ Without control over football or a cut of the revenues generated by television, bowls or championships, the NCAA depends almost solely on the end of season men’s basketball tournament for revenue. And does the tournament ever generate revenue. In 2010, the NCAA reached an 14-year agreement, worth $10.8 billion, with CBS and Turner Sports to televise, for the first time, every one of the tournament’s games. If the largest schools, which, with the help of the Bowl Championship Series, just crafted a football playoff, figured out a way to manage an event similar to the NCAA Tournament, a full split from the NCAA would become even more lucrative – and even more probable. “It’d make (schools) more money because it all goes straight to them,” Bilas said. “TV would flock to that.”¶ But even if the biggest conferences and schools abandoned the NCAA, what would stop them from perpetuating the status quo that avoids paying the athletes on which it would depend? After all, much of the support for paying players from coaches, Calipari included, is in the form of the stipend, and while that is an improvement over the current situation, it still leaves the players voiceless in the process. The claims that exist now -- that players are amateurs or that such a system would be unsustainable -- would still exist, even if the money was greater and the NCAA restrictions were no longer present. Wouldn't universities, awash in even more cash, want to hold onto it just the same?¶ When Bilas was a senior on Duke University's basketball team, a former player-turned-activist approached him and his teammates about boycotting the 1986 Final Four. The players, under the proposed protest, would suit up and take the court like normal, but when the game was to begin, they would refuse to take the court, a show of symbolic unity against the NCAA.¶ “My senior year, he came to me, he wanted us to boycott the Final Four,” Bilas said. “I said sure, but can’t we do it next year? I’m playing in it this year."¶ The protest never materialized, and similar efforts that have been bandied about since haven't either. The problem, Bilas said, is that athletes view college sports as a gateway, a mere stepping stone, to the professional ranks. Rocking the boat and missing a once-in-a-lifetime chance at the Final Four or a championship over a compensation issue that likely won’t change while that player is in college is hardly a rational decision.¶ “If you’re an athlete, you’re saying, ‘I’m only going to be here for four years,’” Bilas said. “These are issues that have lasted for almost 100 years. It’s going to take an athlete with a lot of foresight and a lot of guts and a long view beyond themselves to do that.”¶ An unwillingness to act is hardly the only barrier to student protest or organization. Because they are not recognized as employees, players receive no rights under federal or state labor laws.¶ “They don’t have any rights under federal labor laws,” Jeffrey Kessler, a labor attorney who has represented both the National Football League Players Association and the National Basketball Association Players Association in labor disputes, said. “They don’t get to form a union, strike, collectively bargain, file unfair labor practice complaints. That’s not available to college athletes.”¶ What athletes can do, Kessler said, is form an association that can represent them in class-action lawsuits. “There has been some effort at this, to file antitrust cases against the various restrictions the NCAA imposes to basically exploit the athletes without paying them,” Kessler said, later adding that “there are good (legal) arguments that Division I football is basically a business, and that students are exploited as workers. And therefore schools should be free to compensate athletes in any manner that they want to, without NCAA restrictions.”¶ Former players have begun challenging different NCAA restrictions in court. In 2009, former University of California-Los Angeles basketball star Ed O’Bannon sued the NCAA, claiming his scholarship agreement did not grant it use of his likeness in video games, commercials, rebroadcasts, and merchandise sales “in perpetuity” without compensation. The lawsuit, now a class-action complaint, seeks to change the way athletes are compensated for use of their likeness both during and after college, and if the NCAA seeks to uphold its amateur values, the suit says, the compensation could be “temporarily held in trust for those individuals until cessation of their collegiate careers.” The suit wants players to receive 50 percent of television revenues and one-third of revenues from video games.¶ Another lawsuit, dismissed by the 7th Circuit Court of Appeals in June but reintroduced in July, is challenging NCAA scholarship restrictions, again claiming a violation of antitrust law.¶ Meanwhile, organizations like the National Collegiate Players Association have come to the aide of players to fight for their rights and protections. The NCPA is not currently seeking to unionize players, but it is pushing alternatives such as the Student-Athlete Bill of Rights, the first version of which was signed into law by California Gov. Jerry Brown last year. The California law, based on NCPA models, provides better scholarship and health protections to athletes at California’s largest colleges and universities.¶ Others, like University of Illinois professor Michael LeRoy, are examining ways college athletes could organize and associate even without full labor protections. LeRoy published a research paper that argues college athletes operate in an “invisible labor market” and function as employees, and as such, they should have the right to bargain collectively. His proposal to fix that – tailored specifically for college athletes -- would not allow athletes to bargain over wages and would not afford them the right to strike, but it would allow bargaining and arbitration on other issues, such as health protections and scholarships. The mere threat of organization, LeRoy argues, could cause the NCAA to grant players more of a say in the system.

And, doesn’t solve the case:

#### A) The PIC is another choice made for athletes – Our Hawkins ev indicates that rectifying legacies of colonialism requires bottom up approaches where reform comes from the athletes. Even if sports are bad the athletes should make that choice.

#### B) Masking - the NCAA is represents a legacy of racism – protests allow students to disrupt the colorblind mythology of sports. Abolishing the NCAA preserves that mythology by taking away a platform for protest – that’s Henderson.

#### C) Campus spill over – sports/NCAA gives athletes the ability to speak on issues that go beyond sports – examples like Missouri prove that athletes position enables them to champion broad coalitions of black students if they are given the chance – that’s Leondard

#### And, there’s no impact uniqueness – our Leonard and Porter ev indicates that racism is inevitable the only question is whether or not black people are empowered to speak out against it or if they get conditioned to stay quite. The plan recognizes of their voice that fights against the respectability politics endorsed by the counterplan’s paternalism.

#### The case solves the net benefit – empowerment is good and creates meaningful academic environment. Cooper 16

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Positive social engagement involves the establishment and maintenance of healthy interpersonal relationships within a given social context. Within Comeaux and Harrison's (2011 Comeaux, E., & Harrison, C. K. (2011). A conceptual model of academic success for student-athletes. Educational Researcher, 40(5), 235–245.¶ [CrossRef], [Web of Science ®] ¶ ) model for college student athletes' academic success, both academic and social integration—particularly interactions with faculty and non-athlete peers—are pivotal for enhancing student athletes' positive developmental outcomes in college. For Black male student athletes, these relationships include active participation in educationally purposeful activities aside from athletic participation (Comeaux, 2010b Comeaux, E. (2010b). Mentoring as an intervention strategy: Toward a (re)negotiation of first year student-athlete role identities. Journal for the Study of Sports and Athletes in Education, 4(3), 257–276.¶ [Taylor & Francis Online] ¶ ). Applying an EBA approach to Black male student athletes' involvement on campus includes the promotion and facilitation of their engagement in educationally purposeful activities such as community service with a large number of ethnic minorities (e.g., local Black neighborhood, school, or church) (Cooper, 2013 Cooper, J. N. (2013). A culture of collective uplift: The influence of a historically Black college/university on Black male student athletes. Journal of Issues in Intercollegiate Athletics, 6, 306–331.¶ ¶ ). Community service involvement has been identified through over 20 years of research on Black students' experiences in college as a significant non-cognitive predictor of their academic achievement in college (Sedlacek, 1987 Sedlacek, W. E. (1987). Black students on White campuses: 20 years of research. Journal of College Student Personnel, 28(7), 484–495.¶ ¶ ). This community service involvement could involve mentoring, tutoring, after school volunteering, sport related activities, building homes, and so forth. Involvement could serve multiple purposes for Black male student athletes. First, it would create a strong sense of purpose at the institution beyond their athletic involvement (institutional commitment and social integration). Another benefit would be the opportunity to build relationships and partnerships with community members and campus organizations that they may not otherwise experience.¶ Moreover, one of the core ideas within the EBA approach for enhancing Black male student athletes' positive social engagement on campus is to establish a formal advocacy group for them. At many HWIs, ethnic minority student groups provide a cultural space for students to discuss issues related to their college experiences, perform community outreach, engage in social activities, build leadership skills, and experience individual and collective empowerment and a sense of belonging. Black male student athletes should have a similar type of organization that serves as a platform for them to voice their concerns about their experiences on campus as well as to cultivate a sense of community beyond the athletic setting (Singer, 2005 Singer, J. N. (2005). Understanding racism through the eyes of African-American male student-athletes. Race Ethnicity and Education, 8(4), 365–386.¶ [Taylor & Francis Online] ¶ ). In addition to the community service component, this advocacy group would participate in activities described in the holistic self-identity awareness HDP section. For example, within this group, the racial microaggressions typology (Sue et al., 2007 Sue, D. W., Capodilupo, C. M., Torino, G. C., Bucceri, J. M., Holder, A. M. B., Nadal, K. L., & Esquilin, M. (2007). Racial microaggressions in everyday life: Implications for clinical practice. American Psychologist, 62(4), 271–286.¶ [CrossRef], [PubMed], [Web of Science ®] ¶ ), CRT tenets (Bell, 1980 Bell, D. A. (1980). Brown v. Board of Education and the interest convergence dilemma. Harvard Law Review, 93, 518–533.¶ [CrossRef], [Web of Science ®], [CSA] ¶ , 1992 Bell, D. A. (1992). Faces at the bottom of the well: The permanence of racism. New York, NY: Basic.¶ ¶ ; Crenshaw et al., 1995 Crenshaw, K., Gotanda, N., Peller, G., & Thomas, K. (1995). Critical race theory: The key writings that formed the movement. New York, NY: The New Press.¶ ¶ ; Delgado & Stefanic, 2001 Delgado, R., & Stefanic, J. (2001). Critical race theory: An introduction. New York, NY: New York University Press.¶ ¶ ; Ladson-Billings & Tate, 1995 Ladson-Billings, G., & Tate, W. (1995). Toward a critical race theory of education. Teachers College Record, 97(1), 47–68.¶ [Web of Science ®], [CSA] ¶ ), and community cultural wealth capital concepts (Yosso, 2005 Yosso, T. J. (2005). Whose culture has capital? A critical race theory discussion of community cultural wealth. Race Ethnicity and Education, 8(1), 69–91.¶ [Taylor & Francis Online] ¶ ) could serve as common vernacular for Black male student athletes to discuss their experiences on campus. Using these categories to communicate with individuals who are less familiar with their experiences as a marginalized group (e.g., faculty, administrators, non-Black student athlete peers, etc.) could serve as a vital bridge for addressing the unique challenges they encounter at these institutions. In an effort to enhance Black male student athletes' sense of belonging and institutional commitment, this formal advocacy group could also partner with various campus organizations, student affairs offices, multicultural departments, and community and professional organizations and businesses to engage in social activism (Cooper, 2013 Cooper, J. N. (2013). A culture of collective uplift: The influence of a historically Black college/university on Black male student athletes. Journal of Issues in Intercollegiate Athletics, 6, 306–331.¶ ¶ ; Tinto, 1993 Tinto, V. (1993). Leaving college: Rethinking the causes and cures of student attrition (2nd ed.). Chicago, IL: University of Chicago Press.¶ ¶ ).

## Frontlines: DA’s

### A2 Donors

#### We impact turn and outweigh the disad – black athletes are treated as disposable and like plantation workers. The disad says we shouldn’t give them rights because rich white donors won’t like what they hear. This is like saying slavery was justified because it kept white southern happy. Reject this ethical stance because it allows white supremacy to flourish and making white ppl uncomfortable is good – that’s Leonard and Porter.

#### It also proves their no impact to the disad – donations fuel a sports industrial complex that keeps admin and coaches rich but none of that trickles down to the athletes themselves. Things cannot get worse for athletes on campus when they are not given anything to begin with.

#### Non-unique:

#### 1. We control uniqueness

#### A. Funding cuts coming

WSJ 2-10 https://www.wsj.com/articles/public-universities-become-prime-targets-for-state-budget-cuts-1486722602

Major public universities are bracing for deep funding cuts as states scramble to cover growing budget gaps, with schools like the University of Iowa and Missouri State University among the biggest victims.

#### B. This is the worst year for endowments in a decade, and decline doesn’t cut aid

CNN Money 1-31-17 http://money.cnn.com/2017/01/31/pf/college/college-endowment-returns/

Last year was the worst year for college endowment returns since the financial crisis. Endowments lost an average of 1.9% after accounting for fees, according to the National Association of College and University Business Officers. Average returns were negative across the board, for public and private colleges with endowments of all sizes. Harvard, which has the biggest endowment in the country, lost about 2%. The disappointing year brings down the 10-year average annual return to 5%, well below the 7.4% that many colleges aim for. Some of the biggest losses came from investments in energy and natural resources, commodities, and alternatives like hedge funds. Private equity and real estate investments performed the best. Related: Harvard endowments cuts jobs But there was some good news. Despite the losses, colleges continued to increase spending from their funds to support financial aid, research, and other programs, according to the report.

#### And link turn –

#### A) Monitoring speech creates liability for universities that can result in bad press and result in millions of damages – turns and outweighs their link. Barocas 15

Barocas, Brett. "An Unconstitutional Playbook: Why the NCAA Must Stop Monitoring Student-Athletes' Password-Protected Social Media Content." Brooklyn Law Review 80.3 (2015): 9.

Through the use of monitoring systems, universities are actually leaving themselves vulnerable to lawsuits and increasing their likelihood of liability. One of the ways that schools expose themselves to liability is by failing to prevent a crime that they have been alerted to on social media. In 2010, University of Virginia student Yeardley Love was killed from a beating by the hands of her ex-boyfriend George Huguely. n176 At the time of the beating, Huguely was a member of the university's men's lacrosse team and Love of the women's team. n177 In 2012, Huguely was convicted of second-degree [\*1054] murder for the act. n178 Bradley Shear, a social media attorney, proposes an interesting and seemingly realistic question that monitoring schools and the NCAA ought to consider: "What if the University of Virginia had been monitoring accounts in the Yeardley Love case and missed signals that something was going to happen?" n179 He then asks, "[w]hat about the liability the school might have?" n180 This is just one example of a crime involving an NCAA athlete and it certainly seems like a real threat to NCAA schools. If the student-athlete were being monitored and showed any warning signs, such as threats or potential for violence, the family of the victim may file a lawsuit for the failure to prevent a crime.¶ Another strong example of the potential liability posed to universities through Internet monitoring and awareness is the Penn State scandal. During the investigations into former coach Jerry Sandusky's child sex abuse, it was revealed that the school may have been aware of what Sandusky was doing. n181 If this turns out to be true, it could leave Penn State liable for "tens of millions of dollars" in damages. n182 In the aftermath of this news, one could fairly ask: "[W]hy would any university want to create more opportunities for lawsuits by monitoring and archiving the digital content of their student-athletes or employees?" n183 Regardless of the complicated ethical issues, an attorney's concern is to limit is his or her client's legal liability. Similarly, if a school found out about a violation or crime taking place because of its social media monitoring, it would seem to follow that they have a duty to report this and a liability that would not have been there if not for the monitoring system. "Once you take on that kind of policing activity, it creates an obligation[.]" n184 As a result, the NCAA must come up with a new social media policy that does not leave its member institutions open to the potential for "tens or hundreds of millions of dollars in legal liability." n185¶ [\*1055] Another way that schools could be exposing themselves to major liability is by a potential "breach in security" that inadvertently leaks the personal information of the student-athletes to the public. n186 Further, a university could expose itself to liability for taking action against a student-athlete "for a post that he or she did not author or that was taken out of context." n187 In that case, the student could have recourse for "reputational damage or lost future financial benefits linked to their athletic talents." n188 Finally, schools are putting themselves at risk just by choosing to monitor their athletes or specific teams. n189 By monitoring only some of its students (either athletes, or even only certain teams), the school risks facing "accus[ations] of discrimination." n190 In sum, "[social media monitoring] opens up such a huge Pandora's box," and the NCAA may have created more of a problem than a solution with its decision to encourage schools to engage in this conduct. n191 "They're essentially assuming a duty of care that they can't enforce." n192

#### B) First amendment suits are worse for the school’s image. Brown 12

Zak Brown [a former sports writer, received his J.D. from the University of Colorado Law School in 2012] 10 J. on Telecomm. & High Tech. L. 421 Summer 2012

Universities should always be careful in the way they restrict speech, though. It is tempting - especially for athletic departments, which are often in the public eye more than other departments - to try and control any negative attention to the program. Allowing a student-athlete to voice somewhat controversial political or academic views on Twitter or Facebook would be preferable to a First Amendment suit that could result in far worse press and litigation costs. If the student-athlete's statement is truly egregious and damaging to the program, it is likely that it would either reasonably be perceived to bear the imprimatur of the school or cause substantial disruption on campus. Those cases would be clear. But punishing speech because of a "mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint" would be a questionable decision. n121¶ However, these tough decisions often are not made in the athletic director's office or even in the general counsel's office. They are made in coaches' offices. College coaches are notorious for wanting to keep a tight rein on their programs, and it is important for their superiors or those responsible for legal issues in the department to educate coaches on these issues. It is impractical at best, and hopeful at worst, that a coach [\*443] would consult their sport supervisor, athletic director, or general counsel when they first read and react to a social media post they do not like. Therefore, universities should take the proactive step of educating coaches on this issue. At most, coaches would recall the educational training on the issue and consider the ramifications of any restriction of speech. And, at the very least, the university could assert that it did its due diligence in educating coaches about restrictions, which could reduce the university's liability.

#### And, Athletic giving crowds out academic giving, which outweighs. Grasgreen 12

Allie Grasgreen [Student Affairs and Athletics Reporter, joined Inside Higher Ed in 2010. She graduated from the University of Oregon in June with a B.S. in journalism and a minor in environmental studies]4/12/12 https://www.insidehighered.com/news/2012/04/27/athletic-giving-crowds-out-academic-donations-research-finds

While some research has identified a positive relationship between athletic success and fund-raising (and some has found no link at all), less explored is where those donors are sending their money -- and if the findings of one new study hold up, university presidents might have a tougher time making that argument in the future.¶ The research, presented here last week at the annual conference of the College Sport Research Institute at the University of North Carolina at Chapel Hill, again linked athletic success to increased donations -- donations to athletic programs, that is.¶ And the researchers found that those increased athletic donations come at the expense of academic ones -- calling into question the assertion that athletic success is inherently financially beneficial to an institution’s academic endeavors.¶ Gi-Yong Koo, a University of Arkansas doctoral student in sport management, and Stephen W. Dittmore, an assistant professor of recreation and sport management there, examined data from 2000-2009 at 29 institutions in the National Collegiate Athletic Association’s Football Bowl Subdivision. Koo hopes to have completed his analysis of all 120 FBS institutions within the next couple of months.¶ Koo and Dittmore looked at how the winning percentage of each college’s football and men’s basketball teams related to annual academic contributions, and, separately, to annual athletic contributions. They also examined the relationship between both types of contributions. The study used a random effects model to account for institutional differences.¶ David Clough, president of the Faculty Athletics Representatives Association and a FAR at the University of Colorado at Boulder, said he was “encouraged” to see researchers delving into this issue.¶ “The question of whether intercollegiate athletics affects private giving to institutions has been around as long as I can remember, as a faculty member,” Clough said in an e-mail. “One naïve stance that some faculty are known to take is that giving can be readily converted; in other words, private donations to athletics can be redirected to academic ends. As development officers well know, donors have their comfort zone, whether it be a particular academic department, a specific academic program, or an athletics team, and redirection is not readily accomplished.”¶ All athletics-related variables that Koo and Dittmore looked at (football and basketball winning percentages, and athletic giving) were negatively associated with academic giving, while the opposite was true for non-athletic variables such as school ranking and personal income.¶ A rise in athletic giving equals a decrease in academic operating dollars (academic giving minus deferred gifts), the researchers say, indicating that athletic giving crowds out academic giving.¶ For every $1 increase in athletic giving, the current operating dollars restricted to academic purposes decreased by $1.40.¶ Amy Perko, executive director of the Knight Commission on Intercollegiate Athletics, contrasted the findings with a 2009 survey of FBS presidents that her organization conducted.¶ “[That survey] found that a majority of presidents ‘do not view fund-raising for athletics and academics as a zero-sum game, in which financial gains for athletics programs are made at the expense of the academic side of the house,' ” Perko said in an e-mail. “This study suggests that view should be re-examined empirically.”¶ The impact of successful programs also depends on the sport. While higher football winning percentages were associated with less academic giving, the researchers found no evidence that basketball winning percentage directly affected academic giving in any direction. But both percentages were “powerful determinants” in driving athletic giving higher.¶ For every 1-percentage-point increase in football winning percentage, the current operating dollars restricted to athletic purposes increased by approximately $6.7 million, while a 1-percent rise in basketball translated to an $8 million increase.¶ Yet for every percentage-point increase in winning for football, academic operating dollars decreased by about $16.4 million.¶ Clough also pointed out that an institution’s own priorities could have an impact on the findings as well.¶ “One important question that is, I believe, left out of the investigators' work is the emphasis placed by institutions, or their partner foundations, on fund-raising in different areas,” he said. “In other words, what percentage of foundations' operating budgets and personnel is dedicated to fund-raising for athletics versus academics? It is logical that efforts produce results, so one would expect larger athletics fund-raising staffs for programs with more athletics giving.”¶ But Dittmore said it’s more complicated than that.¶ “Literature shows a primary motive to donate to athletics is for tangible benefits such as tickets to athletic contests,” he said. “Universities that have highly demanded sports programs may have an easier time raising funds.” Further, he added that factors such as capital campaigns for on-campus facilities may have an impact.

#### A) Revenue inequality makes college sports unsustainable even with donations. Reynolds 2/25

Dave Reynolds 2/25/17 <http://www.pjstar.com/sports/20170225/resource-gap-how-smaller-schools-are-struggling-to-keep-up-with-colleges-big-boys>

Bradley University president Gary Roberts is convinced that the current financial structure of Division I college athletics is unsustainable.¶ "We have a subgroup of schools that have turned football and men's basketball into professional entertainment," Roberts said. "The money that's earned is simply so great that schools who don't earn it won't be able to stay competitive for much longer.¶ "Right now at Bradley, we can sustain the subsidy of college athletics. But barely. If that deficit were to grow anymore, it would get very problematic for us."¶ Opinions differ over how unsustainable. Of the eight college administrators and coaches interviewed for this story, all agree the challenges are growing for schools outside the Power Five, the 65 members of the five wealthiest conferences in NCAA Division I.¶ Bradley's Roberts was the most emphatic in his assessment and believes major restructuring will come sooner than later. Such changes could run the gamut from a split of Division I basketball and other sports into two divisions (such as already exists in football) to individual schools deciding unilaterally to downsize to the less expensive worlds of Division II or III. While the Power Five schools have always held a large financial edge in revenues generated through ticket sales, donations, corporate sponsorships and NCAA and bowl game distributions, that gap has escalated in recent years with massive television agreements.¶ Last summer, the Big Ten landed a six-year, $2.64 billion deal with ESPN, Fox and CBS, a figure in addition to the league's lucrative Big Ten Network. The Lafayette (Ind.) Journal & Courier reported that the Big Ten's media rights revenue for the 2017-18 academic year is projected at $44.5 million for each of the conference's 12 most established schools, with lesser amounts going to new members Maryland and Rutgers.¶ That profit figure is many times the entire budget of most Division I athletic departments, according to a 2015 USA Today study detailing financial information for athletics of the 230 Division I public schools.¶ In 2014, new NCAA legislation allowed the major conferences — the Atlantic Coast, Big Ten, Big 12, Pac-12 and Southeastern, dubbed the "Power Five" — to create their own rules. Thanks in large part to its TV contracts, the Big Ten operates on a higher financial level than the other Power Five leagues. Approximately two dozen athletic departments among those 65 Power Five schools are self-sustaining, a pipe dream for the rest of Division I.

#### B) Donations will go down no matter what b/c of lack of interest. Novy-Williams 1/3/17

Eben Novy-Williams 1/3/17¶ <https://www.bloomberg.com/news/features/2017-01-03/the-unravelling-of-college-football-starts-with-all-these-empty-stadiums>

Attendance at the top division of college football dropped for the seventh straight year, according to Bloomberg’s analysis of data from the National Collegiate Athletic Association. The modest average decline—roughly a percentage point per year—includes consistently sold-out powerhouses that cover some steep drop-offs. In the Big 12 Conference, the average crowd at the University of Kansas has dropped by 50 percent since 2009. Western Michigan University never came close to filling its 30,200-seat stadium in 2016, in spite of the most successful season in Broncos history. Collegiate sports, particularly football, generate revenue in three main ways—media contracts, ticket sales and donations—and falling attendance is a double-whammy to the business model: unsold tickets hurt the bottom line today and deprive schools of alumni donations in the future. Research suggests that when students don’t go to games, they’re less likely to give money after they graduate.¶ Athletics directors across the country aren’t sure how to reverse the trend. “The simple exercise of going to a sporting event has changed significantly, especially for millennials,” said FAU athletic director Patrick Chun. “I hope it’s cyclical, but there’s not really an answer out there right now.”¶ In 2011, FAU opened a new, $70 million stadium. The team sold an average of 17,565 tickets per game, earning $1.3 million in sales. This year attendance fell to a ten-year low of 10,073, and ticket revenue has fallen as well. Over the same time frame, the overall athletics budget has grown to $27 million, a nearly 50 percent increase needed to cover facilities upgrades, rising coaches salaries and athlete benefits. The school has provided $16 million in subsidies to balance the budget.¶ Many mid-sized programs face the same problem. The entire home attendance for 47 schools in college football’s top division fell short of the one-day crowd that turned out to see Virginia Tech versus Tennessee at Bristol Motor Speedway in September. Ball State averaged a division-low 7,789 per game. FAU was fourth from the bottom at 10,073.¶ To combat low attendance, Chun and his staffers have surveyed FAU students and season ticket holders and worked with the school’s Greek system and student government to help make the games more appealing. The Owls now let students use their meal cards at games and give input on what’s offered. FAU is in the minority of programs that sell beer in the stadium.

### A2 Lose Scholarship/Education

#### The case solves – NCAA is already moving to prevent this. Stahl 15

Jeremy Stahl [Slate Editor] <http://www.slate.com/articles/sports/sports_nut/2015/11/mizzou_protest_and_the_shifting_of_ncaa_scholarship_rules.html> 11/10/15

It used to be that college athletes could lose their scholarships for pretty much any reason: if they were injured, if the school claimed they were injured when they weren’t, if they didn’t play up to the coach’s standards, or for whatever excuse the team might come up with to free up a valuable scholarship spot. Earlier this year, a former Delaware State University volleyball player sued her old school, alleging that she lost her scholarship for opposing her coach’s mandated church attendance and Bible study policies. In another case from last year, Georgia Bulldogs football coach Mark Richt admitted to dropping a recruit because he didn’t like the player’s Twitter account (Penn State did the same thing the previous season). The first college athlete in the country to stage a Black Lives Matter protest, Knox College’s Ariyana Smith, was suspended from her team indefinitely for the display, which involved lying on the court for 4½ minutes as a reminder that Michael Brown’s body was left out in the street after he was killed in Ferguson. (Smith has said she believes the college only overturned her suspension after a media uproar, and she did not immediately return to the team.) These cases show how dangerous it was until very recently for players to exercise their free speech rights: Say or do the wrong thing, you just might lose your scholarship. “For most of these guys, I think they fear retribution from their institutions if they do speak up,” Robert Bennett III, a staffer at Ohio State University’s office of diversity and inclusion, told the publication Diverse: Issues In Higher Education last year. But in 2012, the NCAA began instituting a series of small-bore reforms in response to legal challenges that have shifted the scholarship dynamic, starting with the allowance of four-year scholarships after nearly four decades of forbidding them. Between 1973 and 2012, college athletes had to reapply every year for their scholarships, which might not be renewed on the slimmest of pretexts. Now, four-year scholarships are allowed though still not mandatory. Many major programs (including Missouri) have only offered them to a small number of college athletes. But the fact that even a small number of college athletes get the four-year deal must allow for a certain confidence that wasn’t there before.¶ But this is even bigger: At the start of 2015, the NCAA’s five most prominent conferences—including Missouri’s conference, the SEC—passed a reform package that has further reduced the ability of athletic departments to retaliate against college athletes. The move eliminated the morally indefensible policy that allowed colleges to revoke or choose not to renew scholarships for athletic reasons—such as injury or poor play. In the past, those athletic performance reasons could be used as a pretext to spike a scholarship when an athlete got out of line, perhaps by, say, threatening not to play unless a university president resigned. “[The rule change] limits the capacity of the administration to use ‘substandard’ athletic performance as a pretext for restraints on student speech and whistleblower retaliation,” Delaware Law School associate professor Andre L. Smith told me in an email. It ultimately “encourages student athletes to use their considerable prominence to engage in public discourse over serious issues.” Under the new SEC guidelines, schools could still “cancel or not renew a student-athlete’s athletics aid if he or she does not meet institutional and/or team policies,” which could have conceivably been used against protesting Missouri players had the school so desired. But, as others have pointed out, doing so would have required conceding that the “student athletes” are actually employees working for their scholarships, which would have been a public relations and potentially legal debacle. In the past, teams could have waited until the season was over to surreptitiously not renew a scholarship of a troublemaker because of his or her “subpar” athletic performance. But this threat is now gone.¶

#### No impact – academics are a joke and graduation rates are terrible. McCormick and McCormick 11

McCormick, Robert A. [Professor of Law, Michigan State University College of¶ Law; J.D.,], and Amy C. McCormick [Professor of Law, Michigan State University College¶ of Law; J.D., Harvard Law School,]. "A trail of tears: The exploitation of the college athlete." (2011).¶

Once these young men arrive on campus, extensive practice and¶ playing schedules monopolize their lives, leaving little time for academic¶ pursuits. 69 "Weak curricula also characterize many athletes' college¶ experiences."70 Universities regularly devise academic majors¶ with minimal academic rigor to "enable athletes to devote maximum¶ time to their sports."7 1 "Athletes report passing classes they rarely attended[,]"¶ 72 having tutors sometimes do their work for them,"7 being told in advance which version of an exam will be administered,"4 and¶ being allowed to take an oral test in lieu of the regular exam.7 5 Nearly¶ three dozen NCAA Division I universities have awarded academic¶ credit simply for participating in varsity sports. 76 Many such courses¶ have no syllabus or exam, require no written work, and are graded on a¶ pass/fail basis.77 One basketball course at the University of Georgia did¶ have a twenty-question final exam.78 Among the questions were "How¶ many halves are in a college basketball game?" and "How many points¶ does a 3-point field goal account for in a Basketball Game?" 79 At The¶ Ohio State University, enrollment in a two-credit class called Varsity¶ Football was limited to football players, and they could take that same¶ course "as many as five times for a total of 10 credits."so¶ Graduation rates for football and men's basketball players are¶ appallingly low-especially at those programs with the most athletic success."' In football, for example, the graduation rates for the eight¶ teams that played in the 2005 Bowl Championship Series (BCS) bowl¶ games were significantly lower than the rates for the overall student¶ bodies at those schools. 8 2 "At the University of Texas, . . .the graduation¶ rate [in 2005] for football players was only thirty-four percent¶ while that of the overall student body was seventy percent."8 3 This pattern¶ existed in basketball as well.84¶ From this evidence, we concluded that, although notable exceptions¶ exist, football and men's basketball players are not primarily students,¶ but, instead, have a primarily commercial or economic¶ relationship with their universities. In the end, we decided that NCAA¶ athletes in revenue-generating sports meet the common law "right of¶ control" standard for employee status, the economic realities standard,¶ and the Brown University standard, and therefore, these athletes ought¶ to be viewed as employees. After all, it is by virtue of their labor that¶ intercollegiate athletics has become such a dazzlingly commercial activity.¶ In reality, it has become a professional enterprise, abandoning amateurism¶ in all respects except one: the treatment of the players. As¶ former Florida State University football coach Bobby Bowden" candidly¶ conceded, "The boys go out and earn millions for their university.¶ Everyone benefits except the players."86¶ At bottom, we concluded that the basis for the separate treatment¶ of athletes rests on the ideal that college sports are amateur-an¶ ideal we believed to be false. And having noted that college athletes are not recognized as employees under labor law, we cast our view wider to¶ examine other areas of law-tax and antitrust-to learn how those bodies¶ of law treat college sports. Both, we learned, like labor law, treat¶ major college sports as a noncommercial, amateur enterprise despite its¶ deeply commercial nature.

Even if scholarships are good – the DA begs the question of the case. The right to bargain and participate comes first. Branch 11

TAYLOR BRANCH [Writer for the Atlantic The author of "The Shame of College Sports" ] 9/26/11 <https://www.theatlantic.com/entertainment/archive/2011/09/why-scholarships-dont-count-as-payment-for-college-athletes/245637/>

The nub of our dispute is over the general terms of service for college athletes. Davis says I overlook the fact that athletes are paid already with scholarship packages, while I say these in-kind benefits beg the fundamental question of whether the colleges and the athletes should be free to bargain for more or less.¶ To insist that athletic scholarships settle the compensation issue is like saying that any worker who gets medical coverage doesn't need or deserve a salary. Worse, the NCAA demands adherence to this absurd standard by forbidding both sides to negotiate changes. Non-playing adults thus reserve to themselves all the wealth generated by college sports, whereas the NCAA punishes highly-valued athletes (famously the Georgia Bulldogs receiver A. J. Green last year) even for selling an old jersey.¶ Davis argues that scholarships are more than enough. ("If anything," he writes, "most of these guys are overpaid.") This is a convenient perspective for those who enjoy or benefit from the current structure, but that doesn't make it fair. The NCAA's unique amateur rules are imposed by private collusion of the colleges without sanction in law. College players, unlike Olympic athletes, are excluded from NCAA membership and from all rights of due process by the consortium that tries to govern them.¶ To me, the basics of genuine reform are simple. No college should be required to pay or not to pay students who play for them in any sport. Athletes should have the rights other citizens take for granted, and should be represented in every organization that depends upon their skill and devotion. We are the only country in the world that hosts professionalized sports at institutions of higher learning. There are profound questions about whether these two missions can or should coexist, but genuine education will not begin until we stop pretending that compensation itself makes college athletes "dirty."

### A2 Title IX

#### The case outweighs – their argument is akin to saying black athletes should endure exploitation so white women can play golf. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

It should not take a long stretch of the imagination to see how Black male athletes contribute significantly to the athletic labor class; thus, to the overall bottom-line of the revenue generated. Their presence as starters and their representation on the top football and basketball programs in the country speak volumes to PWIs need for Black male athletes.¶ Within this current economic configuration, another area to consider is the contribution Black male athletes are making toward “Title IX sports”40: those sports that are added to meet gender equity require- ments, which undoubtedly are played mostly by White women (e.g., rifle, golf, equestrian, rowing, bowling, and lacrosse). According to Welch Suggs: Only 2.7 percent of women receiving scholarships to play all other sports at predominantly white colleges in Division I are black. Yet those are precisely the sports—golf, lacrosse, and soccer, as well as rowing—that colleges have been adding to comply with Title IX.41¶ Therefore, since Title IX has provided very limited opportunity for Black females but additional opportunities for White women to compete and Black male athletes make up the greater percentage of the revenue gen- erating sports that contribute to athletic departments’ revenue, and thus their ability to support these additional sports, a reoccurring historical relationship between the White female and Black male has been resur- rected. I refer to this contribution and connection as the “Driving Miss Daisy” syndrome.¶ The Black male-White female relationship in the United States has a storied history. Although intimate relationships between Black males and White females were forbidden by the system of White supremacy and legislated by lynching mobs during slavery and post–slavery periods, these relationships occurred and were managed through clandestine engage- ments. During these historical periods, the social order prescribed more palatable and professional arrangements for White females and Black males in the form of master/servant relationships, where Black males served the needs of Whites, in general, and White women; this service was in the role of carriage drivers, house servants, chauffeurs, and so on. Though the laws against miscegenation are buried in the annals of U.S. history, the role of Black males serving the needs of White women continues to prevail in our society.¶ Driving Miss Daisy, the Pulitzer Prize-winning play by Alfred Uhry, captures a 25-year relationship between a wealthy, White strong-willed Southern matron (Miss Daisy) and her Black chauffeur (Hoke) during the racially charged 1950s and 60s. The Hollywood version of this play cost $7.5 million to produce in movie form and earned $93.6 million at the box office. It went on to capture three Academy Awards for best actress (Jessica Tandy), best screenplay adaptation (Uhry himself), and best film of 1990.¶ The essence of this movie reiterates the master (Miss Daisy)—servant (Hoke) relationship. At her disposal, although initially reluctant, Hoke endures the degradation and verbal abuse from Miss Daisy, yet served her faithfully. Although Hoke was compensated economically, his responsi- bility as chauffeur/caretaker was his internal colony, and it relegated his potential in a racially structured society and oppressed his ability for self- expression. Although he was a man, he was perceived to be less than a man—invisible, simply a cog in the machinery of the Jim Crow South. Hoke’s visible presence as a man was only in theory, mere imagery, in the minds of White Southerners. In the social reality of this era, Hoke was deemed a boy and a personified disposal instrument made accessible for the comforts and privileges of the White establishment; regardless of its benevolence. Therefore, pushed to the limits of invisibility, Hoke is provoked to cry out and proclaim to Miss Daisy, “I ain’t some back of the neck you look at while you goin wherever you got to go. I am a man.” Yet, a man racially assigned and relegated to the position of service—driving Miss Daisy.¶ The institutional arrangements of NCAA Division I athletics present a similar Miss Daisy-Hoke relationship, where Black male athletes are invisible as men but strategic in bearing the burden of generating reve- nue for athletic departments across the United States. Disguised under the auspices of gender equity requirements in college athletics, where once again the benefactors have mainly been White women, Black males find themselves locked in this perpetual relationship of servicing the needs of the White establishment, in general, and White women, specifically.

## Frontlines: K’s

### A2 Cap K

Omitted

### A2 Legalism K

Omitted

### XT: Solvency – Case Turns K

#### Decolonization within the university requires giving athletes the freedom to organize with other black students on campus. Black students are severed from their communities and sequestered into their own locations on campus.The case is a prerequisite and turns the K. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

Decolonization basically suggests that there is a transfer of power (resources) from the colonizer’s hands back to the colonized’s. The history of colonialism in Africa and internal colonialism in the United States illustrates that in many cases this shift of power has been superficial and without the needed substance to qualify the colonized as completely lib- erated and independent. The use of indirect rule has been and still is an effective means that gives an illusion that power has changed hands; when in fact there have mainly been cosmetic changes.¶ Besides the emancipatory strategies outlined earlier, the ability of Black athletes to recognize and understand their common goals, potential des- tinies, and collective efforts, and then organize to form a united voice is a key emancipatory strategy. While the efforts of NCAA officials seek to diversify its leadership, an important need of Black athletes for self- empowerment and collective self-actualization is to organize to insure that the efforts by the NCAA go beyond the current superficial cosmetic changes. The organization of Black athletes in a democratic manner and use of a democratic approach is a prerequisite to fully realizing the transfer of power and necessary resources into their hands or accessible to them as a collective body.¶ I emphasize this strategy because the athletic culture presents a severe process of domestication, which breeds conservatism and political inac- tivity. When I competed in sports, from Little League Baseball to col- lege sports, it was under a type of dictatorship. We were being trained to take orders and follow through on those orders regardless of our physical limitations. There was no democratic process in deciding whether we wanted to run in 100 degree weather, or to negotiate the practice schedule if our sleep patterns requested a siesta. No, coach said, “Run!” We said, “How far and how fast coach?” If the coach said, “Jump!” We said, “How high and how long?” For us, during the era of capital punishment in the home and school, confronting coach or the system was like talking back to your parents—you might as well pack your bags. Therefore, because of the nature of the athletic culture, motivating athletes to organize around weightier matters could present a challenge.¶ However, organizing for political input, that is, the ability to make valid input and vote on the policy decisions that govern their lives and the resources they produce, is imperative for Black athletes. Kwame Nkrumah suggests that a people without political independence cannot exist freely or be respected.5 Economic exploitation and political, racial, social, and cultural oppression will not be minimized for Black athletes at these institutions without obtaining political independence. According to Nkrumah:¶ No people without a government [political independence] of its own can expect to be treated on the same level as peoples of independent sovereign States. It is far better to be free to govern, or misgovern yourself than to be governed by anyone else.6¶ Nkrumah’s statement expresses the necessity for Black athletes to orga- nize. The alternative is to be continually disrespected, that is, economi- cally exploited, politically, racially, socially, and culturally oppressed.¶ Organizing can be problematic because all Black athletes may not have the same goals of graduating and becoming better educated. Some may be looking for a way into the professional ranks, and unfortunately, they must endure one or two years in a college or university environment; in my experience, fortunately, this group has been the minority. However, with the increased opportunities in professional sport (e.g., Arena Football, expanding franchise teams in the NBA, professional basketball leagues in other countries, etc.) and the increased number of athletes opting to leave prior to finishing their eligibility, could pose a problem to uniting. Fortunately, the majority of Black athletes that I have come in contact with have generally shared the goals of graduating and becoming better educated at these institutions, thus, they could benefit from the emancipa- tory strategies of uniting.¶ For Black athletes, two of their strongest allies in uniting and organiz- ing are the National College Players Association and the existing Black student organizations. Together Black students and Black athletes should seek to use their collective power to better their living and educational conditions on these campuses. No longer can Black athletes be discour- aged by athletic department staff members from joining and support- ing Black organizations. Even though the schedules of Black athletes are restrictive and may cause conflict in them participating in some of the meetings of these organizations, sacrifices must be made by both groups to unite and do strategic planning that will produce agendas and tactics to aid in changing these unaccepting environments.¶ If staff members in the athletic department (coaches, counselors, ath- letic directors, and other administrators) are concerned about the well- being and academic success of Black athletes, they should understand and accept Black athletes organizing with Black students. They must become less demanding of Black athletes’ time and adhere to NCAA ruling that limits the athletic participation of all student athletes to 20 hours a week during the season of competition and 8 hours a week during the off- season. Basically, they must be willing to relinquish some of the power and control they have over the lives of Black athletes. Although a lot about life can be learned through the collegiate athletic experience, they still need more freedom to enjoy collegiate life beyond the playing fields and arenas.

### XT: No Root Cause

#### No root cause to the case – black athletes occupy a unique position and only centering our discussion on anti-blackness recognizes the particularity of the oppression we discuss Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

Because of the interworking of this system, the concept of amateurism will be challenged in the chapters that follow; as mentioned previously, amateurism is more of an ideology than a practice. These programs oper- ate more on a professional or semiprofessional level, and they are more commercial in nature, than they are amateuristic. As professional or semi- professional leagues, we will explore how the behavior of Black athletes resembles the labor patterns of oscillating migrant laborers.¶ My perspective has been informed from the following sources: my personal experiences, focus groups, think tanks, after-class discussions, and informal and formal interviews with Black athletes, coaches, academic counselors, faculty members, athletic directors, and administrators from various NCAA Division I institutions. My observation of the patterns of behavior witnessed at the structural level of these institutions, and the experiences of individuals mentioned above will be used to focus on the social constraints and arrangements Black athletes must navigate.¶ Similar to the military industrial complex and the prison industrial complex that consist of a network of organizations/universities, busi- nesses, corporate vendors, and so on, who collaborate and are driven by a profit motive, NCAA Division I intercollegiate athletics form an athletic industrial complex19 that functions similarly. In the following pages, this study intends to describe this athletic industrial complex using a planta- tion model (internal colonial model20) to draw similarities between the structures of these institutions (intercollegiate athletics and internal colo- nialism) and highlight some of the deficiencies of PWIs because, like a plantation system, they are driven by economic motives.¶ Because internal colonialism has not been a conceptual framework used to analyze the experiences of Black athletes, a variety of historical sources will be used to construct this model. The reason this model was chosen to apply to NCAA Division I intercollegiate athletics is because according to Robert Staples:¶ The main concern of the internal colonial model is the structural inequality between racial groups and the dynamics of social institu- tions and practices that maintain racial differentials in access to social values and participation in society. It focuses on structural variables instead of exploring individual motivations....21¶ Staples also suggests that, “It [internal colonial model] has managed to shift the foci of study from the victims of racial oppression to the oppres- sor and his exploitative system.”22 The goal of using this model is to illustrate the structural variables and inequalities of predominantly White institutions—examine the “cri- sis of institutional arrangements.” This model can also be instructive in understanding the institutionalization of social and cultural racism and the political and economic exploitation inherent in PWIs relationships with Black athletes. This will include a look at the ideology of Blacks’ purported physical superiority and intellectual inferiority, and also the pattern of oscillating migrant laborers to see how they contribute to these inequalities.¶ The question may arise as to why White athletes are not included in this study. Although White athletes share some of the same experiences as Black athletes, it is because they have benefited the most from this relationship. For example, they graduate at higher rates and they have more avenues of employment to explore upon graduating. For example, in 2008, the NCAA reported that four-year graduation rates for Black male athletes participating in football and men’s basketball were 49 percent and 42 percent, respectively. These rates are considerably lower than the rates of their White teammates. This is important when we examine the racial demographics of the teams and starters, where Black athletes make up the majority of the basketball teams and the majority of starters on football teams at several NCAA universities.¶ Another reason they have been able to benefit from this arrangement is because of White skin privilege.23 White skin privilege allows White athletes to blend more into the predominantly White school setting, thus allowing them to have more positive experiences than Black athletes. According to Robert Sellers, “Black athletes are more likely to report experiencing racial isolation than are white athletes.”24 Their ability to assimilate into the campus setting reduces the stress and negative experi- ences Black athletes are subjected to because of their skin color.¶ I have noticed in my experiences that the lives of Black athletes on predominantly White campuses are more complex than their counterparts. The simple act of walking across campus, sitting in classrooms where there are very few (if any) Black students, or being vocal in class discussions can be challenging and uncomfortable for some Black athletes. These sim- ple acts, in and of themselves, are stressful for many White students, but race adds another layer within this predominantly White environment. For several Black athletes I have worked with, this has been a contribut- ing factor in their low class attendance and social interaction on campus. White athletes do not have to contend with this level of stress that evolves from racial ignorance; therefore, their experiences are different.¶ Furthermore, although Black and White athletes are members of the same working class or athletic labor force, Black athletes occupy a differ- ent structural position because of their race and other sociocultural factors. Thus, within this working class or labor force group, there exist lines of division based on racial categorization (mainly phenotypic characteristics) and sociocultural factors. This line of division denotes what is known as a class fraction.25 Therefore, Black athletes are a class fraction within this larger working class. According to Phizacklea and Miles, a class fraction is “an objective position within a class boundary, which is in turn deter- mined by both economic and politico-ideological relations.”26 Phizacklea and Miles explain that:¶ Class boundaries mark the objectively different structural positions in economic, political and ideological relations but these relations also have independent effects within these boundaries.27¶ Therefore, Black athletes and White athletes exist in the same labor class (working class) and share similar experiences regarding economic exploi- tation. However, Black athletes are considered a class fraction because they make up a different structural position based on different economic relations (socioeconomic status of family upon entering college) and polit- ico-ideological relations (race, the sports they participate in, and possibly their position on the team, and the low percentage of Blacks that make up the student body). Studies that have highlighted the different structural positions Black athletes occupy in relation to their White counterparts include the stereo- typical belief regarding Blacks’ intellectual inferiority and athletic supe- riority, the differences in their demographic and academic backgrounds, overall college life experiences, mental health issues, and social support.28 Furthermore, there are several studies that illustrate how the academic performance of Black athletes is lower than that of White athletes once they are on campus.29 Because of the different backgrounds and experi- ences of Black and White athletes and despite the common experience of labor exploitation they share, in this analysis Black athletes will be viewed as class fractions.

#### Race is the defining marker on college campuses. Hawkins 13 phd

Billy Hawkins [ Ph.D in Health an Sport Studies and Professor in the Sport Management and Policy program in the Department of Kinesiology at the University of Georgia, USA.] The new plantation: Black athletes, college sports, and predominantly white NCAA institutions. Palgrave Macmillan, 2013.

Similar to their internally colonized predecessors, race is ultimately a defining factor. It functions as a social marker within the colonial set- ting. Thus, the colonized were easily and specifically identified by their race. Their physical and social movement was regulated because of their skin color. It determined their existence and ascribed their identity in the colonial setting. Race binds them to a world constructed by the colonizer, which prescribes their worth and value based on their output or ability to produce.¶ For the Black male located in the internal colonial settings of PWIs, race functions similarly. According to Stuart Hall, race is a floating signi- fier; its meaning fluctuates given the context.25 As Hall further suggests, it “floats in a sea of relational meaning” where the context provides the script. Thus, Black males and Black male athletes share race and gender in common and this commonality occasionally causes them to occupy the same space, however, their experiences vary significantly when ath- letic identity cloaks the racial identity of Black male athletes. Therefore, a Black male means one thing and a Black male athlete means something different in the context of PWIs. To a certain degree, athletic identity allows Black male athletes to have a different experience and to mean something different to PWIs than Black males who are nonvarsity sport athletes.¶ Black male athletes are necessary to the economic vitality of the rev- enue generating sports of basketball and football at PWIs. Their over- representation on these teams situates them as an exploitable labor force that sustains the intercollegiate athletic industrial complex. This over- representation also speaks to the premium and demand for their athletic labor and an expected level of output; because Black athletes are always recruited to play or to add depth to a roster. As a necessary element for the athletic labor force, their race then places them within a historical relationship with the exploited Black labor that preceded them on plan- tation fields. This Black labor was converted into a system of production that sustained the internal colonial system of slavery and slavocracy, which contributed to both Southern and Northern economic development.¶ In summary, structurally, Black males (athletes and nonvarsity athletes) are visible at PWIs. Although access to PWIs for Blacks, in general, and Black males (nonvarsity athletes), specifically, is limited, Black male ath- letes are necessary fixtures within the intercollegiate athletic complex. Therefore, ideologically, the structural arrangements reflect and reinforce stereotypical beliefs about intellectual inferiority and physical superiority for Black males. When the most visible representations of Black males at PWIs are consistently athletes, it supports age old scientific racist ideals and practices. Upon contact, Black males are immediately racially and athletically profiled. The burden and blessing of being profiled varies in degree of intensity. Yet, navigating this terrain and receiving an education and graduating speak to the fortitude of Black males. In spite of the odds, the low representation, the low expectations, and the low graduation rates (37 percent national average in 2007),26 the Black males that are prevail- ing is commendable. Yes, the 63 percent that do not graduate from these institutions is a dismal rate and require inquiry, but the 37 percent are a testament of hope and an example of how PWIs are contested terrains where Black males are resisting ideological beliefs.¶ Race clearly is a factor impacting the experiences of Black students at PWIs. Institutions of higher education should approach this issue both at the structural and ideological levels. Increasing numbers without address- ing the culture and the ideologies that prevail in academe is insufficient. It creates a cycle where Blacks are forced to always adjust, attempt to acculturate, and disarm racist ideology, when the institution should set the tone and be the leaders in fostering an inclusive environment: culturally, socially, psychologically, and so on. Beyond the admission policies imple- mented to increase minority enrollment, the ethos of PWIs must actively embrace racial differences not as a condescending or paternal act, but as a necessity for its relevance in the global market.

#### Their root cause arguments obscure the racialized leadership structure of college points. The NCAA is an apartheid system. McCormick and McCormick 11

McCormick, Robert A. [Professor of Law, Michigan State University College of¶ Law; J.D.,], and Amy C. McCormick [Professor of Law, Michigan State University College¶ of Law; J.D., Harvard Law School,]. "A trail of tears: The exploitation of the college athlete." (2011).¶

Lastly, we looked at one aspect of NCAA amateurism rules that¶ is so obvious as to have initially eluded us-the racial implications of¶ these rules.122 in our most recent piece, Major College Sports: A Modem¶ Apartheid, we argued that major college sports flourish on the basis¶ of an apartheid system that effectively sanctions the exploitation of¶ mostly African American young men for the enormous commercial gain¶ of mostly European Americans associated with major universities, athletic¶ organizations, and corporations.123 As we showed, college football¶ and men's basketball players are disproportionately African American¶ and generate immense sums of money for a wide array of others who¶ are predominantly of European-American descent.124 And while¶ NCAA rules obligate players to live by a code of amateurism that forecloses¶ any real opportunity to earn compensation for their labor, that¶ precept does not apply to university officials, coaches, athletic directors,¶ conference commissioners, corporate partners, or NCAA officials who¶ are predominantly of European-American descent and who alone may¶ enjoy the bounteous wealth created in substantial part by the players.125¶ In short, we looked at the racial composition of the players on¶ the top twenty-five football and men's basketball teams,126 and com-pared that data with the racial composition of university presidents, athletic¶ directors, and coaches, as well as with the racial composition of the¶ undergraduate student bodies at those same institutions.127 We first¶ gathered data in 2004-05 and did so again in 2009-10.128 That data¶ showed that during 2004-05 some 68% of football athletes were African¶ American, 129 while African Americans comprised an average of just 6%¶ of the student population as a whole at those schools.130 In the same¶ period, 78% of men's basketball players from the top basketball teams¶ were African Americans, while only 8.5% of students overall at those¶ institutions were African American.13' This pattern continued, with¶ 61% of football players on the top teams being African American in¶ 2009-10 compared to 5% of the overall student body being African¶ American at that time.132 And in basketball, on average, 66% of the¶ athletes on the 2009-10 top basketball teams were African American,¶ while only 7% in the overall student body were.133¶ More to the point, only 3 of the 75 surveyed administrators-the¶ university president, the head football coach, and the athletic director from¶ the top football schools in 2009-10, or 4%, were African American.134¶ With regard to the top basketball schools, in 2009-10 only 6 of¶ the 75 surveyed administrators-the president, head basketball coach,¶ and athletic director-or 8%, were African American.135 In sum, African¶ American players predominantly staff these athletic teams, while¶ administrators at these same institutions are overwhelmingly European Americans. 3 6 Thus, it is largely African American labor that generates¶ wealth for a class of mostly European-American individuals, while being¶ denied all but a sliver of that bounty by NCAA rule.' 37¶ A broader examination of all Football Bowl Subdivision (FBS)¶ universities revealed that more than 92.5% of university presidents were¶ European American in 2007-08 while only 2.5% were African American.138¶ As regards coaches generally, European Americans then held¶ nearly 90% of all head coaching positions in Division I schools, while¶ African Americans held only 7%. 139 Twenty-three percent of head basketball¶ coaches at Division I schools that year were African American,140¶ while only 5% of head football coaches at FBS universities were¶ African American. 141 Of head coaches for the 2009-10 top-twenty-five¶ ranked men's basketball teams we surveyed, only 16% were African¶ American, 14 2 and the percentage for the top-twenty-five ranked football¶ teams was only 4%.143 In addition, European Americans hold some¶ 90% of the athletic director positions in all of Division I, while African¶ Americans hold only 7%,14' and the same percentage holds true for associate¶ and assistant athletic directors as well.145 Clearly, most individuals¶ who benefit financially from major college sports are of EuropeanAmerican¶ descent.¶ We have already described how NCAA rules severely limit athletes'¶ ability to support themselves. Because of the racial demographics¶ of the groups involved, the effect of those rules has been to capture the¶ wealth created in substantial part by the labor of predominantly African¶ American young men for the benefit of predominantly European-American¶ university officials We do not allege that NCAA rules are discriminatory on their¶ face or that they were created for a racist purpose. At the same time,¶ while neutral in form, these rules have an overwhelmingly disparate¶ economic impact in their application on a distinct racial minority, and¶ U.S. justice properly looks skeptically upon rules that, while neutral on¶ their face, systematically burden racial minorities in grossly disproportionate¶ ways. This skepticism, born of this country's catastrophic experiment¶ with slavery and its struggles to deal with the vestiges of that¶ regime, has given rise to the adverse or disparate impact theory of employment¶ discrimination that prohibits an employer from using facially¶ neutral rules that have an unjustified adverse impact upon members of a¶ protected class.'46 Put somewhat differently, the adverse impact theory¶ outlaws the use of employment rules or practices that do not appear on¶ their face to be discriminatory, but are so in their effect unless the employer¶ can justify those rules as manifestly related to job duties.'4 7 The¶ Supreme Court has crisply described the doctrine as condemning "employment¶ practices that are facially neutral in their treatment of different¶ groups but that in fact fall more harshly on one group than another and¶ cannot be justified by business necessity."l 4 8¶ Thus, under sound principles of U.S. law, neutral rules that disproportionately¶ burden racial minorities in significant ways require a¶ legitimizing purpose even in the absence of discriminatory intent. 14 9¶ For example, in Griggs v. Duke Power the company required entry¶ level employees to take a standardized test and have a high school diploma-two¶ requirements that had the effect of disproportionately excluding¶ African Americans from employment. 5 0 The Supreme Court¶ held that proof of discriminatory motive is not necessary because Title¶ VII "proscribes not only overt discrimination but also practices that are¶ fair in form, but discriminatory in operation.""' As the Court famously¶ put it, the "absence of discriminatory intent does not redeem employ-ment procedures or testing mechanisms that operate as 'built-in¶ headwinds' for minority groups and are unrelated to measuring job capability."1¶ 52 To justify such rules, the Court wrote, an employer must¶ show that "any given requirement . . . [has] a manifest relationship to¶ the employment in question."153 "If an employment practice which operates¶ to exclude Negroes cannot be shown to be related to job performance,¶ the practice is prohibited."' 54¶ Disparate impact analysis has also been employed under a variety¶ of other federal statutes, including the Age Discrimination in Employment¶ Act,15 5 the Rehabilitation Act of 1973,156 and the Americans¶ with Disabilities Act of 1990.157 Courts have also used impact analysis¶ to strike down facially neutral literacy tests for voting.' 58 In short, this¶ doctrine has been applied in many areas of life because slavery and its¶ aftermath have wisely cautioned us to question rules that disproportionately¶ burden African Americans, even when those rules were not created¶ for a racist purpose.¶ In this case, the question becomes whether NCAA amateurism¶ rules, ostensibly designed to shield college sports from commercialism,¶ but that also have the effect of financially exploiting mostly AfricanAmerican¶ young men, can be justified by notions of amateurism. In our¶ view, the answer to that question is no. NCAA rules have done nothing¶ to preserve college sports as an amateur enterprise. 159 Quite to the contrary,¶ major college sports has become a thoroughly commercial enterprise¶ and carries only the fagade of amateurism by maintaining a system¶ of rules, like apartheid systems throughout history, that has separated¶ races and classes and assigned the burdens to one, while reserving the¶ financial rewards for the other, creating, in effect, a modern apartheid.

## Frontlines: T/Theory

### A2 T Protect - General

#### Tinker is guiding precedent and the bans violate the disruption test. Especially true for social media. Gay 11 Jd candidate

Gay, J. [.D. Candidate, May 2013, Florida State University College of Law; B.A. Political Science, ] "Hands off Twitter: Are NCAA student-athlete social media bans unconstitutional." Fla. St. UL Rev. 39 (2011): 781.

Under the substantial disruption test found in Tinker, public universities unconstitutionally restrict the First Amendment speech rights of student-athletes when they ban those students from using social media. In order for these bans to be constitutional, the schools and coaches would have to show that the banned speech either has disrupted or would substantially disrupt school operations. Tinker has almost always been applied to school settings, used to evaluate whether the speech caused a substantial disruption to the institution's educational objectives. Are the things that student-athletes say on their social media profiles so inciting as to cause a substantial disruption of the universities' pedagogical concerns? Or is it more likely that the speech will most often go unnoticed? And in the few instances that such speech does get noticed, it may only raise athletic ineligibility issues- issues separate from the pedagogical concerns of the school since a student-athlete's enrollment in the school is unaffected by his or her continued participation in collegiate sports.¶ Additionally, there do not appear to be any instances in which something a student-athlete said on her social media account caused any protests, led to the cancellation of classes, or affected the school's educational environment in any noticeable ways. Also, the student-athletes' social media speech has not violated any other person's [\*802] rights. In only a few instances has the student-athlete speech that ultimately caused a ban been speech that was offensive or lewd. n182 Moreover, that type of speech is protected speech on college campuses when the speech does not bear the imprimatur of the school, which student-athlete speech does not.¶ In contrast, the public universities and coaches have usually explained that the bans were necessary because a student-athlete had posted something that the university found embarrassing or that the university or coach simply did not agree with. n183 These explanations are very similar to the online student speech cases in which the school officials did not show evidence of a substantial disruption. Instead, the officials argued that it was not an unconstitutional restriction on the students' speech because they found the speech distasteful or disagreeable. n184 And since the courts should defer to the school officials' judgment in school matters, it was not unconstitutional when the officials restricted student speech they found inappropriate-or so the school officials argued.¶ In those cases, however, the courts held that when there was no substantial disruption, school officials violated the student's First Amendment free speech rights when they restricted the speech or punished the students. n185 Like the schools in those cases, these public universities and coaches are banning student-athletes from using social media because they do not like what a few student- athletes sometimes say. Like the schools in those cases, these school officials and coaches can only rely on deference to their judgment because they have not shown that a student-athlete has caused a substantial disruption in the school environment through social media use.¶ Under the Tinker substantial disruption test, these bans on social media use are unconstitutional. University officials and coaches have not offered an example of a student-athlete causing a substantial disruption in the school environment through social media use. None of the student-athletes who were banned from using social media had used it to infringe on another student's rights prior to the bans being implemented. Clearly, these bans on social media by public universities are motivated by concerns over image control and interests in further success in a multi-billion dollar industry-concerns that are glossed over with rhetoric trumpeting the privilege of being a collegiate athlete. Unfortunately, these bans are implemented with little [\*803] protest because, of all the parties involved, the student-athletes are in the weakest position to refuse these constitutional infringements.

### A2 T Protect – Voluntarily give up

#### The waiver argument has a shakey court backing and cuts against first amendment jurisprudence. LoMonte 14

LoMonte, Frank D [JD Executive Director Student Press Law center]. "Fouling the First Amendment: Why Colleges Can't, and Shouldn't, Control Student Athletes' Speech on Social Media." J. Bus. & Tech. L. 9 (2014): 1.

Regardless of whether an express written waiver exists, schools may argue that voluntary participation in the activity itself operates as an implicit acceptance of the coach's and athletic department's conditions. n234 The "implied waiver" argument superficially finds some support in the Supreme Court's jurisprudence addressing the Fourth Amendment rights of K-12 students ordered to submit to drug testing as a condition of taking part in extracurricular activities. On examination, however, the situations are not materially analogous. n235¶ In Vernonia School District 47J v. Acton, the families of student-athletes at an Oregon high school challenged the school district's decision to require a signed waiver acceding to random drug testing as a condition of playing interscholastic sports. n236 While recognizing that a drug test qualifies as a "search" for Fourth Amendment purposes, the Supreme Court ruled 6-3 that the drug-testing regime imposed no unreasonable intrusion on the students' privacy. n237 The Court observed [\*43] that student-athletes already accept diminished privacy, including communal showering and locker facilities. n238 "By choosing to 'go out for the team,'" the majority stated, the athletes "voluntarily subject themselves to a degree of regulation even higher than that imposed on students generally," including minimum grade-point standards, mandatory insurance coverage, and a preseason physical. n239 On the opposing side of the scale, the Court found two legitimate government interests that outweighed the sacrifice of students' privacy: first, that drug use presented an imminent physical danger to safety, including the safety of innocent teammates and opponents, and second, that the evidence established a "crisis" level of defiance of drug laws and other illicit behavior in this particular district, which in the school's judgment could be ameliorated by curbing drug use among student "role models." n240¶ The Court then expanded on Vernonia in Board of Education of Independent School District No. 92 v. Earls, finding no Fourth Amendment violation in a more expansive drug-testing regimen applying to all students taking part in extracurriculars, not just athletes. n241 The school's factual case in Earls was significant weaker -- there was no evidence of a "crisis" level of drug abuse, and little indication that students posed a danger to others while using drugs during choir or glee club -- yet a 5-4 majority found the policy "minimally intrusive" and justified by the school's health and safety concerns. n242 Notably, the relatively mild consequences of a positive drug test were pivotal to the majority's conclusion. For a first offense, the school imposed no punishment beyond a parental conference and a mandatory follow-up test; a student would be suspended from participation only after failing a second test, and dismissed from the activity only after failing a third time. n243¶ Vernonia and Earls, to the extent that they apply in the college setting at all, do not logically lead to the conclusion that students taking part in sports implicitly waive all constitutional rights. The Court's reasoning was a straightforward application of the balancing-of-interests that always applies to Fourth Amendment challenges. n244 Colleges defending the punishment of "offensive" or "inappropriate" speech--or defending a categorical prohibition on social media--would be asking for a deviation from the Supreme Court's established First Amendment jurisprudence, not an application of it. In the First Amendment context, unlike in [\*44] Fourth Amendment cases, courts are limited in their ability to assign differing values to individual speakers' constitutional interests. n245 There is no First Amendment equivalent to the "reasonable expectation of privacy" that is at the heart of every Fourth Amendment assessment. n246 (If there were, that factor assuredly would cut against a government demand for access to the nonpublic portions of password-protected social media accounts.) More to the point, drug testing is limited to detecting unlawful activity that poses a physical danger to the student and to others. Colleges' asserted control over social media is not limited to unlawful or physically dangerous behavior. The ability to prevent and punish dangerous criminal behavior in no way suggests by extension the ability to also prevent and punish non-dangerous lawful behavior.

#### Athletes aren’t in a contract situation and even if they were it’s unconstitutional to force them to give up their rights. LoMonte 14

LoMonte, Frank D [JD Executive Director Student Press Law center]. "Fouling the First Amendment: Why Colleges Can't, and Shouldn't, Control Student Athletes' Speech on Social Media." J. Bus. & Tech. L. 9 (2014): 1.

Some college attorneys maintain that athletes may legitimately be required to waive any claim that social media monitoring violates their privacy or free-expression rights, as part of the Financial Aid Agreement that sets forth the terms of athletic scholarships. n218 But to the extent that colleges are relying on contract theory to legitimize plenary control over their athletes' social-media lives, the theory is flawed both as a matter of constitutional law and as a matter of basic contractual formalities.¶ From the standpoint of contract law, the most obvious defect is that, in many well-publicized cases, social media bans have been imposed in midseason by fiat of a coach, not as part of a signed agreement. n219 These midseason edicts represent a unilateral change in the terms of the relationship, not part of a bargained-for exchange. Further, while the initial choice of a college is a freely bargained marketplace transaction, renewing the contractual relationship in subsequent years is not. A student-athlete is under infirmities that significantly limit his mobility, and thus his ability to walk away from an onerous contract term. n220 Among these is the simple matter of timing. Most institutions require substantial advance notice before accepting a transfer student; an athlete who is unpleasantly surprised by an [\*40] unexpected term in the Financial Aid Agreement likely will be unable to seamlessly change colleges without interrupting his educational and playing career. For an athlete in his second, third or fourth years of college, the Financial Aid Agreement is a classic contract of adhesion, a take-it-or-leave-it proposition to which the only alternative may be quitting college altogether. And while contracts of adhesion typically are enforceable even when the parties stand in starkly uneven bargaining positions, n221 an exceptionally broad waiver of First Amendment rights might trigger judicial scrutiny under the doctrine of unconscionability. n222¶ Perhaps more to the point, not all athletes receive scholarships, meals and housing. A substantial number of athletes "walk on" to their college teams. They sign no "letter of intent" committing them to enroll, and they receive no compensation beyond the intangible benefits of athletic participation. n223 It is highly unlikely that a coach would accede to two differing levels of control over players, one for those receiving financial benefits and another for walk-ons. Since a coach will assert the same level of control over non-scholarship as well as scholarship athletes, an athletic department's authority over players' speech cannot be based on the scholarship contract.¶ Requiring a student to sign away constitutional rights in exchange for the opportunity to play sports risks running afoul of the "unconstitutional conditions" doctrine. As Professor Epstein has explained the doctrine, "even if a state has absolute discretion to grant or deny a privilege or benefit, it cannot grant the privilege subject to conditions that improperly 'coerce,' 'pressure,' or 'induce' the waiver of constitutional rights." n224 A requirement to waive constitutional rights as a condition of receiving a government benefit will be held unconstitutional if the [\*41] right "has little or no relationship" to the withheld benefit. n225 Interposing the artifice of a contract so as to make the government coercion appear voluntary does not legitimize the exaction, because "the state cannot accomplish indirectly that which it has been constitutionally prohibited from doing directly." n226 Significantly, a citizen may challenge a coercive condition as unconstitutional even when the condition is tied to a purely discretionary benefit. n227 Consequently, that a college student has no vested constitutional right in participating in sports or any other extracurricular activity would not be fatal to a legal challenge.¶ In the past term, the Supreme Court reinvigorated the seldom-invoked unconstitutional conditions doctrine in the case of Agency for Int.l Development v. Alliance for Open Society International, Inc. n228 There, a coalition of nongovernmental organizations receiving USAID funding for anti-AIDS programming in Africa challenged a federal requirement that grant recipients enact a statement explicitly opposing the practice of prostitution. n229 The organizations were concerned that staking out such a position risked alienating government officials in host countries and making it more difficult to work supportively with prostitutes in combating HIV. n230 Relying on the doctrine of unconstitutional conditions, the Supreme Court held that the requirement represented an unlawful coercive use of government funding to compel a grant recipient to alter its constitutionally protected message "outside the scope of the federally funded program." n231¶ The determination whether a condition is unconstitutional thus turns on the pivotal question of whether the condition is "within the scope" of the government benefit on which it is contingent. While a tightly drawn restriction on social media use during the performance of or preparation for an athletic competition might well survive scrutiny, a broader proscription will be constitutionally suspect. The "scope" of a college athletic program does not extend to all off-hours expressive activity. The student/school setting is perhaps uniquely well suited to a challenge under the theory of unconstitutional conditions, because the doctrine is understood [\*42] as protecting not just the individual who is subject to the coercive bargain but the larger society as a whole. Understood in this way, the refusal to recognize the validity of a purported waiver of rights gives effect to the Constitution as not just a grant of affirmative individual rights but as a check on overreaching by government. n232 With the possible exception of prison, there is no setting where the power differential between individual and government is more pronounced than at school, and courts should look especially critically at contracts imposed on relatively unsophisticated counterparties purporting to widen that power differential. A broad waiver of the First Amendment right to engage in "inappropriate" speech unrelated to athletics, or of the Fourth Amendment privacy interest in social media login information n233 enabling an athletic department to read even private one-to-one messages, is thus vulnerable to challenge as an unconstitutional condition.

### A2 T Protect – Social media Specific

#### There is no plausible justification for social media restrictions happening in the squo. LoMonte 14

LoMonte, Frank D [JD Executive Director Student Press Law center]. "Fouling the First Amendment: Why Colleges Can't, and Shouldn't, Control Student Athletes' Speech on Social Media." J. Bus. & Tech. L. 9 (2014): 1.

IV. ATHLETE SOCIAL MEDIA RESTRAINTS FLUNK FIRST AMENDMENT SCRUTINY¶ A. Athlete Social Media Bans Invite Vagueness, Overbreadth Challenge¶ If a First Amendment challenge arises to colleges' social-media restrictions, the inquiry will focus on the nature of the speech being restricted and the relative importance of the government's rationale. Since so little speech is categorically beyond the scope of the First Amendment, an athlete's case typically will involve constitutionally protected expression. The question then will become whether the government has a compelling justification overriding the speaker's First Amendment rights, and whether the restriction is a "fit" well-tailored to the problem being addressed. By that yardstick, the initial generation of restrictions on college athletes' social-media activity will be difficult to justify.¶ The Supreme Court has shown special solicitude for speech addressing, even peripherally and with no great depth or sophistication, issues of political or social concern. The Court's decision in the Snyder case involving Westboro Baptist Church turned decisively on the Court's conclusion that the subjects of the church protesters' hate speech--"the political and moral conduct of the United States and its citizens, the fate of our Nation, homosexuality in the military, and scandals involving the Catholic clergy"--were matters of public concern. n163 In a recent [\*27] application of this doctrine in the school setting, the Third Circuit recognized that even in-school speech using "lewd" phrases is constitutionally protected if it can be understood as addressing an issue of social or political concern. n164 Speech attempting to shed light on abusive practices by coaches, for instance, would be properly regarded as addressing a matter of public concern. Because restrictions on athletes' online speech do not typically make any allowances for speech addressing matters of public concern, they run the risk of impermissibly chilling unkind remarks about national political figures or impolitic remarks about contemporary social issues -- exactly the speech for which the Court has always said the First Amendment must provide an extra modicum of "breathing space." n165 Punishing athletes for the use of taboo "flagged words" invites a special risk of impermissible viewpoint discrimination. Athletes who are singled out, for instance, because they express anti-gay religious views or views insulting to particular ethnic minorities may well have a First Amendment claim if speakers expressing contrary viewpoints go unpunished. n166¶ Banning the use of social media to protect athletes from reading unkind speech about them is a singularly unpersuasive justification. The remedy is fatally under-inclusive, because so many alternative conduits exist. n167 Even without a social media account, an athlete is exposed to the wrath of sports fans and commentators on talk radio, on blogs and news websites (including reader comment boards), and of course within the stadium itself. And indeed, one need not hold a Twitter account at all to read the content on Twitter that writers make publicly accessible. Unless athletic departments also are prepared to ban telephones and email, those with [\*28] ulterior agendas--sports agents, fixers, boosters--have no shortage of alternative ways to communicate with athletes n168 (and indeed, given the risk of public exposure, social-networking pages would be a relatively unlikely conduit for those bent on criminality). Banning social media entirely is also overbroad, in that (a) narrower remedies exist, including privacy settings that allow account-holders to refuse to accept messages from unknown or unwelcome senders, and (b) voluntarily abstaining from social media, for those athletes who are sensitive to criticism. n169 While the doctrine is not well-developed, the Supreme Court has recognized a First Amendment right to receive as well as to communicate information. n170 Ordering even an athlete who is thick-skinned and is unafraid of criticism to abstain, over his objections, from taking part in social media would implicate both the right to speak and the right to read.¶ "Saving the athlete from himself is the weakest of the justifications that athletic departments and their advocates have offered for banning or regulating social media activity. n171 The idea underlying selectively singling out social media for prohibition -- that social media is a uniquely effective way to reach a large audience--is both self-defeating and beside the point; the First Amendment is not volumetric, and a speaker's right to freedom of expression does not diminish simply [\*29] because the speaker is effective at attracting a large readership. n172 The proposition that a citizen could be prevented from speaking so as not to embarrass himself and damage his reputation would be a breathtakingly paternalistic view of the government's regulatory authority. An athlete is no more likely to post career-damaging material on social media than is, for instance, a law student or journalism student who posts material that is plagiarized, that displays prejudice, or that violates professional ethics, yet no university would seriously entertain a campuswide ban on social media as a means of preserving its students' career prospects. n173 Indeed, given the exceedingly small number of student athletes who will ever have professional sports careers in which their "brand" is of serious financial value--and that superior ability to catch touchdown passes or make tackles will still make even the most inept social-media user employable n174 -- athletes maybe less in need of "saving" than are non-athletes.¶ Athletic departments predictably will attempt to defend curbing social media use as part of legitimate "time, place and manner" restrictions. But the doctrine of "time, place and manner" is best understood as pertaining to a speaker's use of government property, not the use of a privately owned platform accessed on a personal electronic device. n175 The Supreme Court developed the concept of permissible content-neutral restrictions on the time, place and manner of speech as an adjunct of the forum doctrine, which provides for a sliding scale of First Amendment protections depending on the nature and historical use of a piece of government property. The Supreme Court typically has applied the time/place/manner to government regulation of speech on public streets, in municipal airports and in public parks--not to a prohibition governing expression [\*30] on private property. n176 Although on rare occasions courts have elected to use the "time, place and manner" construct when evaluating the constitutionality of laws that apply beyond public property, n177 that standard arguably is insufficiently protective, since it demands nothing more than reasonableness.¶ Even if the doctrine were to apply, the tight control that athletic departments exercise over their athletes' speech in all settings raises serious questions about whether an athlete has reasonable alternatives to social media that provide access to a comparable audience. And indeed, it is the unique ability of social media to inexpensively reach a geographically diffuse audience that has placed the medium in the crosshairs of regulators. For example, it is commonplace for athletic departments to require athletes to get approval from the athletic department before speaking to a news organization, and to ban media outlets from interviewing first-year players. n178 If a player who is concerned about abusive conditions in the athletic program is neither allowed to use social media nor to speak directly to the news media, the athlete has no reasonably available method of speaking to a national audience. n179 Restrictions will be more easily defensible if they apply at limited times [\*31] (perhaps during and immediately before games) and if they leave other online conduits open for uncensored use. Twitter has been singled out by athletic departments as a special concern, perhaps because its default setting is to make the writer's posts publicly accessible, while Facebook's is to make the posts accessible only to a circle of pre-approved "friends." If athletes are banned from just one social-media site, then the restriction may pass scrutiny as reasonable -- though even there, the consolidation of social media and mainstream media are making it increasingly difficult for someone without a Twitter or Facebook account to be heard. For example, online newspapers increasingly are forbidding members of the public from posting comments to their websites without logging in by way of a Facebook account, hoping to discourage some of the noxious verbal abuse associated with anonymous commenting. n180¶ To defend encroaching into athletes' online lives, colleges may argue that they need extraordinary authority because of the unique regulatory environment governing college athletics. Although the NCAA does not require member institutions to monitor social media, n181 colleges may "defensively" seek such authority after such cautionary experiences as the NCAA penalties levied against the University of North Carolina, which referenced the university's failure to detect misconduct that was apparent from athletes' social-media postings. n182 While a more sympathetic argument than "image control," this justification too is unlikely to prove adequate to override a student's constitutional interests. Participation in the NCAA is voluntary. A government cannot enter into a voluntary agreement to give its citizens fewer rights than the Constitution guarantees. n183 Moreover, the NCAA's public rebuke to North Carolina referred only to information publicly available on athletes' social networking sites. The NCAA has not held any college responsible for policing the non-public portions of athletes' social media sites, so pressure to comply with NCAA directives cannot legitimize otherwise impermissible incursions into privacy and free expression.

### A2 T Online

#### Reno v ACLU proves that speech written online is constitutionally protected speech for students. Gay 12

J. W. Gay, Hands Off Twitter: Are NCAA Student-Athlete Social Media Bans Unconstitutional?, 39 Fla. St. U. L. Rev. (2012) .http://ir.law.fsu.edu/lr/vol39/iss3/5 SP

To date, the Supreme Court has not come close to addressing the discussion of what protections exist for online student speech. However, the Supreme Court has addressed general online speech, and many lower federal courts have been forced to decide cases involving online student speech. An examination of those cases offers some indications as to whether bans on student athletes from using social media are unconstitutional. In Reno v. ACLU, the Supreme Court held that online speech is no different than other speech and requires full protection under the First Amendment.The suit was brought in response to the passage of the Communications Decency Act of 1996, which Congress intended to effectively restrict indecent adult online speech so minors would not be exposed to such content while surfing the Internet.119 In support of its holding, the Court described in great detail the pervasive nature of the Internet in the increasingly technological and connected world.120 The Court concluded by stating that online speech is “ ‘the most participatory form of mass speech yet developed.’ In the arena of online student speech, the lower courts have been left to grasp for conclusions with little to no guidance from the Supreme Court. Accordingly, the courts have drawn a few distinctions in student speech that they believe are meaningful: off-campus online speech versus on-campus online speech, online speech brought on campus by the speaker versus online speech brought on campus by another student, and online speech which may foreseeably be brought on campus versus online speech that cannot foreseeably be brought on campus.122 Interestingly, the lower courts have been in near agreement that the Tinker substantial disruption test is the appropriate analysis foronline student speech.123 The substantial disruption test is best suited for a majority of the types of online student speech that have come under the courts’ review

## Frontlines: Framework/Phil

### XT: Framework vs T

#### Omitted

### CI v Framework

#### Omitted

### XT: Framework vs Phil

#### Omitted

### A2: Kant

#### NCAA uses them as a means to an end, which violates the CI and requires rights.

Hullihen, Ethan. "The Ethical Dilemma of Paying College Athletes: An Argument of Fairness and a Kantian Perspective (Essay Writing)." Tapestries (2012).

Are athletes truly used as just a means to an end rather than being the end themselves? The¶ NCAA swears this is not the case, arguing that they value education above anything else and¶ that teaching values such as sportsmanship, hard work, dedication, and teamwork through¶ athletics is their main goal. Despite their stance, many argue that the NCAA is only looking out¶ for themselves and how much money they can make off of their “student-athletes.” For¶ example, Branch interviewed former North Carolina president William Friday, who discussed¶ the stranglehold that money seems to have on universities. Branch says that Friday “longed for¶ a campus identity more centered in an academic mission,” and quoted a troubling admission:¶ “If television wants to broadcast football from here on a Thursday night…we shut down the¶ university at 3 o’clock to accommodate the crowds” (1). Further evidence exists that athletic¶ events often interfere with education, as Kellia Ramares of Global Research states: “Despite the¶ argument that a longer season would interfere with the players' studies, conferences have¶ added post-season basketball tournaments. More games mean more revenue” (“Big-Time¶ College Sports”). These examples do not match the sort of moral integrity that the NCAA¶ upholds. One final example may be the best indicator of the NCAA’s true intentions. In¶ December 2010, the NCAA suspended five prominent Ohio State football players—including¶ starting quarterback Terrelle Pryor—for the first five games of the 2011 season after they¶ received free and discounted tattoos from a local tattoo parlor in exchange for autographs and¶ their personal Ohio State memorabilia. The verdict was questioned, however, as the players¶ were still allowed to play in the Sugar Bowl that was to be played in January, a BCS bowl game¶ that the school had earned a spot in. This decision aroused much debate, as it appeared the¶ NCAA cared more about ratings and profit for one of their major BCS bowls than upholding¶ their ideals on amateurism. The NCAA claims that the Ohio State players were not suspended¶ for the Sugar Bowl because “the student-athletes did not receive adequate rules education¶ during the time period the violations occurred” (“NCAA Requires Loss”). Many had trouble¶ buying into such assertions, as Bob Hunter of The Columbus Dispatch writes:¶ The general feeling…seems to be that the Buckeyes got away with something….No¶ columnist or commentator I've found can see the logic in the NCAA ruling permitting the¶ Ohio State players to play in New Orleans and then sit out five games next season; the¶ message that both instances send is that the rules are interpreted differently when it¶ means protecting TV and bowl partners that have become so lucrative for its member¶ schools. (“Delaying Players’ Suspensions”)¶ This appears to be the perfect example of the NCAA using their athletes as a means to an end—¶ which are very lucrative endeavors such as championship games and television deals. To Kant,¶ this would be immoral; however, the NCAA’s true stance in this instance cannot be determined. What is evident is that the question of whether the NCAA is doing what is best for their¶ student-athletes could probably be asked.¶ Conclusion¶ The college player cannot sell his own feet (the coach does that) nor can he sell his own name (the college¶ will do that). This is the plantation mentality resurrected and blessed by today’s campus executives. (qtd. in¶ Branch 7)¶ The idea of indentured servitude was born of a need for cheap labor…. Indentured servants became vital to¶ the colonial economy….Servants typically worked four to seven years in exchange for passage, room, board,¶ lodging and freedom dues. While the life of an indentured servant was harsh and restrictive, it wasn't slavery.¶ There were laws that protected some of their rights. But their life was not an easy one. (“Indentured Servants”)¶ The former are not the words of any commonplace newspaper columnist or sports blogger;¶ rather, they are penned in the memoir of Walter Byers, who in 1951 became the NCAA’s first¶ executive director and one of the overseers who helped mold the NCAA into the organization it¶ is today. Many in society cringe or scoff when the privileged lives we lead are compared to the¶ atrocity that was slavery, especially when the comparison is in the realm of sport. While the¶ plight of student-athletes is not nearly as horrendous as that of the slaves so many years¶ before them, it does not take much research to see that their current situation parallels closely¶ to a life of indentured servitude.¶ While a clear-cut answer to the problem of compensation for student-athletes may not be¶ obvious, what is evident is that on an ethical level, most athletes are not fairly compensated for¶ all they do for their respective universities. As an organization laced with hypocrisy, the NCAA¶ must determine an equitable solution to this problem in order to level the playing field and¶ improve its image. Some would even say it’s imperative.

### Add-On: Classroom Discussions Key

#### In education students need to learn to challenge powerful institutions and social structures. Sarroub, and Quadros

Sarroub, Loukia K. and Quadros, Sabrina, "Critical Pedagogy in Classroom Discourse" (2015). Faculty Publications: Department of Teaching, Learning and Teacher Education. Paper 156. <http://digitalcommons.unl.edu/teachlearnfacpub/156> SP

The classroom is a unique discursive space for the enactment of critical pedagogy. In some ways, all classroom discourse is critical because it is inherently political, and at the heart of critical pedagogy is an implicit understanding that power is negotiated daily by teachers and students. Historically, critical pedagogy is rooted in schools of thought that have emphasized the individual and the self in relation and in contrast to society, sociocultural and ideological forces, and economic factors and social progress. In addressing conceptualizations in Orthodox Marxism (with Karl Marx, Max Weber, and Emile Durkheim) in the mid-19th century and the Frankfurt School (with Theodor W. Adorno, Max Horkheimer, Herbert Marcuse, Friedrich Pollock, Leo Lowenthal, and Walter Benjamin), contemporary critical theory still embodies the concept of false consciousness, the idea that institutional processes and material mislead people, and the internalization of values and norms, which induce people to act and behave according to what it is expected in society (Agger 1991). The problem of domination (which cannot be reduced to oppression, nor is it akin to it), a complex understanding of how social structures mediate power relations to create different forms of alienation (Morrow and Brown 1994), mainly depicts the reproduction of social struggles, inequities, and power differences, reflecting some of the main aspects of critical pedagogy classrooms. In considering such critical theory in classroom settings, Giroux and McLaren (1989) acknowledge the importance of teachers and students understanding classroom pedagogical practices as a form of ideological production, wherein the classroom reflects discursive formations and power-knowledge relations, both in schools and in society. Within these conceptualizations, Livingstone (1987), referring to Freire (1970), refers to critical theory in classrooms as a critical pedagogy of practice, claiming the concept as a radical perspective in which “intellectuals engage in social change to make the political more pedagogical and the pedagogical more political” (xii). In such terms, the “political more pedagogical” calls for a redefinition of historical memory (which, in critical theory, is the basis for the understanding of cultural struggles), critique, and radical utopianism, as the elements of a political discourse highlighting pedagogical processes, such as knowledge being constructed and deconstructed, dialogue being contextualized around emancipatory interests, and learning being actively pursued in radical practices of ethics and political communities. In making the “pedagogical more political,” Freire (1970) refers to a more profound idea of schooling in order to embrace the broader category of education in the forms of critically examining the production of subjects and subjectivities that take place outside of school settings and developing a radical critical teaching in which educators are able to examine how different public settings interact in shaping the ideological and material conditions that contribute to sites of domination and struggle. Theoretically, critical pedagogy in classroom discourse embodies the practice of engaging students in the social construction of knowledge, which grounds its pillars on power relations. In utilizing critical pedagogy in the classroom, teachers must question their own practices in the process to construct knowledge and why the main knowledge is legitimized by the dominant culture. Moreover, through emancipatory knowledge (Habermas 1981) educators draw practical and technical knowledge together, creating a space for understanding the relations of power and privilege that manipulate and distort social relationships. In the end, participants in critical pedagogy classrooms are encouraged to engage in collective action, founded on the principles of social justice, equality, and empowerment (McLaren 2009). One example of the application of the theory in classroom contexts in which English is taught as a foreign language directs the concept of critical pedagogy to a narrower, but no less powerful, dismantling of power structural systems of imposition and false consciousness. Pennycook (1989, 2006) and Canagarajah (1999, 2007) examine the role of English as a foreign language, which embodies political ideological assumptions in international classrooms. According to Pennycook (1989), educators need to understand local political configurations in order to know whether a particular language policy is “reactionary or liberatory” (112). Theorists in foreign language teaching (Phillipson 1988; Canagarajah 1999; 2007; Pennycook 1989; 2006) argue that the political imposition of English as a foreign language interferes with the vitality of local multilingualism due to the hegemonic status of English (in Canagarajah 1999, 208). Considering the harmful effects of linguistic influence, Phillipson (1988) and Canagarajah (2007) cite two instances of struggle for local communities where English is the imposed foreign language. The first instance is the dependence and subjugation of the third world and, second, the values of the industrial consumerism culture, which reflect aspects of capitalist societies and countries that maintain the status of global, powerful structures. Pennycook (1989) complements such claims by arguing that the international spread of English historically has paralleled the spread of Western cultural norms of international business and technological standardization. Peirce (1989) also argues that we need to expand our views of language as “neutral,” since “English, like all other languages, is a site of struggle over meaning, access, and power” (405). Regarding these assumptions of subjugation of the third world, industrial consumerism, the cultural norms of international business and technological standardization, and struggle over meaning, access, and power, critical pedagogy practitioners approach English as a tool to engage participants in larger ideological discourses, promoting agency and knowledge, not only about the learning of the structural aspects of becoming fluent in the language, but, and more importantly, how such a language influences their immediate reality and communities. In literacy studies, the discourse of critical pedagogy embodies the emancipatory force that challenges the idea of literacy as not being politically neutral, observing that with literacy comes perspectives and interpretations that are ultimately political (Gee 2008). In using literacy as a skill to prepare individuals to “read the word” and “read the world” (in Freirean terms), classroom discourse adds to the idea of learning the ability to decipher symbols and acquire the academic language to empower participants in their contexts, calling educators to open spaces for marginalized students to voice their struggles in political, social, and economic spheres

### **XT: Ethics Bad**

#### Our framework is a requirement for ethical life in the first place – white supremacy prevents black people from engaging in ethical life. Leonardo and Porter 10

Zeus Leonardo & Ronald K. Porter [Graduate School of Education, University of California, Berkeley ](2010) Pedagogy of fear: toward a Fanonian theory of ‘safety’ in race dialogue, Race Ethnicity and Education, 13:2, 139-157

One of the main premises of safe-space discourse is that it provides a format for people of color and whites to come together and discuss issues of race in a matter that is not dangerous as well as inclusive. Thus, the conventional guidelines used to estab- lish a safe space – such as being mindful of how and when one is speaking, confiden- tiality, challenge by choice, and speaking from experience – are used to create an environment where fundamental issues can be broached and no one will be offended. Taken unproblematically, this trend is reasonable. However, the ironic twist is that many individuals from marginalized groups become both offended and agitated when engaging in apparently safe spaces.4 In their naiveté, many white students and educa- tors fail to appreciate the fact – a lived experience – that race dialogue is almost never safe for people of color in mixed-racial company. But before we romanticize its oppo- site, or same-race dialogues, the idea that homogeneous spaces are automatically safe for people of color is a mystification for they result precisely from a violent condition: racial segregation. That said, something has gone incredibly wrong when students of color feel immobilized and marginalized within spaces and dialogues that are supposed to undo racism. This situation should give us doubt regarding whether or not safe-space dialogue really allows for the creativity necessary to promote a humanizing discussion on race, or if it functions, in Fanon’s words, as a negotiating table that seeks peaceful compromise without engaging in the violence necessary to both explore and undo racism.¶ We want to suggest that the reason why safe-space discussions partly break down in practice, if not at least in theory, is that they assume that, by virtue of formal and procedural guidelines, safety has been designated for both white people and people of color. However, the term ‘safety’ acts as a misnomer because it often means that white individuals can be made to feel safe. Thus, a space of safety is circumvented, and instead a space of oppressive color-blindness is established. It is a managed health-care version of anti-racism, an insurance against ‘looking racist’. Fanon provides a useful counter to the inherent color-blindness of current racial pedagogy. Fanon’s arguments in both Black skin, white masks and The wretched of the earth, show sympathies with what intellectuals now call a post-racial analysis (see Leonardo in press). Fanon (1967a) warned against the inherent narcissism of white racial supe- riority found in arguments for separatism, what Appiah (1990) terms ‘extrinsic racism’, which is the inferiorization of an outer group in terms of their moral worth. Fanon stated, ‘I believe that the fact of the juxtaposition of the white and black races has created a massive psychoexistential complex. I hope by analyzing it to destroy it’ (12). In destroying the neuroses of blackness, Fanonian violence approaches post- race implications to the extent that the genesis of blackness is a source external to it: that is, whiteness (see Nayak 2006). By hoping to destroy it, Fanon suggests ending race as a neurotic relation. However, to be clear, Fanonian post-race differs from color-blindness because it seeks to destroy race and racism via a practice of full engagement as opposed to a practice of avoidance. Fanon’s methodology was phenomenological because he sought to undo racism by engaging the phenomenon itself, of going through race in order to undo it. Thus, a Fanonian post-racial gesture to pedagogy is both different and more beneficial than the color-blind stance taken up in safe-space dialogue, which is hardly blind to color. Perhaps the problem with safe space is that it willingly tries to side step the issues, as well as the educative aspects of anger and frustration, necessary for a beneficial and truly liberatory dialogue on race to take place.¶ A Fanonian approach leads us back into considerations of violence in race-based dialogue. The question we must ask is how do we go about understanding liberatory discussions on race as necessitating violence? We are not speaking of violence in the sense of a willful act to injure or abuse, but a violence that humanizes, or shifts the standards of humanity by providing space for the free expression of people’s thoughts and emotions that are not regulated by the discourse of safety. Our main criticism of safe space is that it is laced with a narcissism that designates safety for individuals in already dominant positions of power, which is not safe at all but perpetuates a system- atic relation of violence. Fanon advised against a politics of narcissism, and instead advocated a materialist politics of recognition whereby an individual allows himself to be mediated by the other, or Fanon’s appropriation of Hegel’s (1977) idealism of the other. Unfortunately, this does not happen because white narcissism is at the very center of safe space. Through the avoidance of conflict and the emphasis on personal and image management, it maintains the self-image and understanding of whiteness and reveals a refusal to change through the other. To be fair, Fanon also took to task people of color’s own narcissism, particularly as it concerns the limitations of identity politics and nationalism, what Appiah (1990) calls ‘intrinsic racism’, or the assump- tion of a family resemblance within a group necessary in the short term and usually for protection against the assaults of an outer group.5 African nationalism during decolonization is an example of the second class, whereas Nazism represents the first class; both are problematic, but they differ in purpose and outcome. White indulgence is a gross attempt to understand the self through the self rather than through the other: narcissism par excellence. In fact, Fanon warns us that the ‘other’ in the self/other dichotomy in racial dialogue may not even exist. According to Gordon (2008):¶ In the contemporary academy, much discussion of race and racism is replete with criticism of otherness. Fanon, however, argues that racism proper eliminates such a relationship. Instead of self and other, there are self, others, and non-self, non-others. In other words, there is the category of people who are neither self nor others. They are no- one. The dialectics of recognition is disrupted, and the struggle of such people becomes one of achieving such a dialectics. Put differently, they are not fighting against being others. They are fighting to become others and, in so doing, entering ethical relation- ships. This argument results in a peculiar critique of liberal political theory. Such theory presupposes ethical foundations of political life. What Fanon has shown is that political work needs to be done to make ethical life possible. That is because racism and colonial- ism derail ethical life. (italics added) A pedagogical approach that avoids safety in the interest of image and personal management makes such an ethical relationship possible.¶ If we are truly interested in racial pedagogy, then we must become comfortable with the idea that for marginalized and oppressed minorities, there is no safe space. As implied above, mainstream race dialogue in education is arguably already hostile and unsafe for many students of color whose perspectives and experiences are consistently minimized. Violence is already there. In other words, like Fanon’s under- standing of colonialism, safe space enacts violence. Those who are interested in engaging in racial pedagogy must be prepared to (1) undo the violence that is inherent to safe-space dialogue, and (2) enact a form of liberatory violence within race discus- sions to allow for a creativity that shifts the standards of humanity. In other words, anger, hostility, frustration, and pain are characteristics that are not to be avoided under the banner of safety, which only produces Freire’s (1993) ‘culture of silence’. They are attributes that are to be recognized on the part of both whites and people of color in order to engage in a process that is creative enough to establish new forms of social existence, where both parties are transformed. This is not a form of violence that is life threatening and narcissistic, but one that is life affirming through its ability to promote mutual recognition.

## Extra

#### Random protest examples

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Racial and Political Unrest in Sports: Precursor to Student-Athlete Activism¶ During the 1960s, the Civil Rights Movement was at the forefront of national discussion in the U.S., including within the context of sports. 54 The enactment of the Civil Rights Act of 1964 represented significant change in the U.S., a country which has had a long history, particularly in the South, of discriminatory practices against non-whites. 55 The advent of the Vietnam War during that same time period caused additional social and political unrest and activism across the U.S. resulting in serious and outspoken protestors, some of whom included high school and college students. 56¶ Boxer Cassius Clay (later known as Muhammad Ali), for example, refused to enlist in the military as a result of his conscientious objection to the Vietnam War in 1967. 57 In 1968, John Carlos and Tommie Smith, who won the gold and bronze medals respectively in the 200 meter dash, paid a price for raising black power fists at the 1968 Mexico City Summer Olympics while on the medal podium as [\*82] the National Anthem was being played. 58 Carlos and Smith reflected the feeling of many Americans at the time of civil unrest in the U.S. 59 As a result of their rebellious behavior, both runners were ejected from the U.S. Olympic team and sent home. 60¶ A few years later, led by American iconic runner Steve Prefontaine, a former NCAA champion from the University of Oregon, and others' discontent with regard to the stringent amateurism rules in track and field which disallowed sponsorships and appearance fees, this turned into public protests. 61 At that time, the contentious struggle for power in amateur sports, particularly between the Amateur Athletic Union (AAU) and the United States Olympic Committee, ultimately led to the enactment of the Amateur Sports Act of 1978 and its modification twenty years later, giving a more powerful voice to amateur and Olympic athletes than had ever been available before. 62¶ Also during the mid-1970s, Major League Baseball (MLB) player Curt Flood, refusing to accept his trade from the St. Louis Cardinals to the Philadelphia Phillies, filed a lawsuit that went all the way to the U.S. Supreme Court, alleging that baseball's reserve clause constituted a form of modern day slavery. 63 Flood, who vehemently opposed being characterized as a piece of property that could be traded like a slave, ultimately lost his legal battle. 64 However, his public action drew national attention, ultimately resulting in MLB changing its rules regarding the reserve clause in 1975, an action that other major professional sports leagues adopted soon thereafter. 65¶ Though the 1960s and 1970s represented tumultuous times with regard to civil rights in the U.S. at the professional and Olympic sport levels, this era also represented some of the most effective mobilization efforts by student-athletes at colleges and universities around the country with regard to their opinions of racial injustice as well. Numerous examples of unrest among student-athletes in football [\*83] resulted in protests that had an impact on their team, coaches, administrators and their opponents as well during the civil rights era. However, organizing for change by way of speech and protest are not confined to the 1960s and 1970s alone.¶ The next subsection provides examples of student-athletes' personal attempts to change the status quo. It appears that throughout history there have been two major areas in which student-athletes have used the power of speech and activism to contest and bring attention to perceived injustices: (1) racial (and sometimes political) discrimination, and (2) lack of compensation for services rendered (also characterized as claims for economic injustice due to commercial exploitation). 66 The following section provides illustrations of these two areas.¶ The Birth of Collective College Athlete Action¶ Although the Civil Rights Movement and Vietnam War played significant roles in prompting vocal activism across many genres within the U.S., student-athlete social activism began taking shape much earlier. Beginning in the 1930s at the University of Michigan and extending into the current age of unified mobilization efforts using social media outlets, the intercollegiate sports arena has a deep history of racial, political, and economic dissatisfaction resulting in continuous and evolutionary change.¶ The Willis Ward Racial Protest in Ann Arbor. One of the earliest examples of public dissatisfaction and activism led by student-athletes in an effort to quash inequitable racial treatment spawned from a football game between the University of Michigan and Georgia Tech on October 20, 1934. 67 The game took place at Michigan Stadium (the Big House), but one of Michigan's players, Willis Ward--a future federal judge--was asked not to participate because of his African-American heritage. 68 In fact, Georgia Tech actually threatened to forfeit the game if Ward played, and Michigan eventually agreed to their opponent's demands. 69¶ [\*84] Initially in response to this agreement, future President Gerald Ford (then a fellow teammate of Ward) and other Michigan teammates initiated a protest, refusing to play in the game and threatening to quit the team. 70 Ward, however, encouraged Ford to play while the sole African-American Wolverine spent the day listening to the game from the confines of his fraternity house rather than sitting in the stadium cheering his team on to victory. 71¶ In 2012 Ward, Ford and this historic event were recognized at Michigan Stadium. 72 The fact that Ford and other players initiated a verbose protest against benching an African-American teammate based on race represented one of the earliest examples of student-athlete mobilization efforts, though such efforts did not ultimately lead to Ward's participation in the game. 73¶ The Howard University Food Boycott. Throughout its history, Howard University (Howard), an historically black college and university (HBCU), has had several instances of student-athlete activism. In 1927, Howard halted all food, housing and tuition payments made to the members of its football team, resulting in players threatening to strike and refusing to play until such payments were reinstated. 74 In this circumstance, the mere threat of a strike was successful, and Howard reinstated the payment plans without disruption to the football season. 75¶ Later, in 1936 Howard football players refused to play in a scheduled game against Virginia Union, alleging that Howard failed to provide them with food prior to or after the game. 76 In a Time magazine report from that period, one Howard player stated, "We were too hungry to get in there and battle those big country boys full of ham and kale." 77 Howard students ultimately joined forces with football players, and boycotted classes to march down Washington DC's Georgia Avenue chanting, "Food! Food! Food! We want food!", and carrying signs reading, "We Want Ham and Cabbage for the Team!" 78¶ [\*85] This show of activism was regrettably without irony--the student-athletes were literally being denied food by their university. 79 Howard's reputation for failing to feed athletes appeared again in the 1980s when a star Howard football player contacted the Washington Post, claiming that he had to play hungry because Howard refused to add him to the university meal plan. 80 Following the whistleblower's expulsion from school due to his statements to the newspaper, the Washington Post published a series of stories about the mistreatment of Howard athletes (much of which entailed deprived feedings), eventually leading to a large-scale boycott by student-athletes at the 1981 Howard athletic banquet. 81¶ Likewise, in May of 1968, Howard student-athletes again rallied to express discontent about their circumstances. 82 In this instance, student-athletes threatened to quit playing for their various sports teams unless Athletic Director (AD) Samuel Barnes was fired. 83 Student-athletes further demanded, "better food, more medical attention, streamlined means of transportation, more equipment, better living conditions and a full-time sports information director." 84 Then the student assembly president, Ewart Brown Jr., a member of the track team, burned his Howard varsity sweatshirt in protest, stating "This is what we think of the athletic program. [We need a] cremation of the old system." 85 Howard is not the only university that experienced early staged protests led by student-athletes; however, its history is noteworthy since the 1968 threats led to the loss of the AD's job. 86¶ [\*86] The University of Wyoming 'Black 14'. On October 17, 1969 at the University of Wyoming, 14 of the football team's African-American players were expelled from the team because they wanted to wear armbands in a game scheduled against Brigham Young University (BYU) in protest to the racial discrimination at BYU and within the Mormon Church. 87 The Wyoming Cowboys were unbeaten and ranked twelfth in the nation at the time. 88¶ The players, who referred to themselves as the Black 14, were dismissed the night before the home game in Laramie and later unsuccessfully sued their head coach in federal court for $ 1.1 million in damages with the support of a law firm from Michigan that had worked with the National Association for the Advancement of Colored People (NAACP). 89 Lloyd Eaton, the head football coach-turned-defendant for the University of Wyoming, believed that his team was targeted and greatly influenced by the Black Student Alliance on campus due to a [\*87] rule against demonstrations. 90 Although the Black 14 did not appeal the decision the U.S. Supreme Court, it is interesting to note that in 1978 the Mormon Church ultimately changed the racially-based policy against blacks, the one the Wyoming players had protested. 91¶ Armbands in Solidarity. In the late 1960s, San Jose State University was also a hotbed for protest among student-athletes and others. Actually, in the 1960s and 1970s, it was not uncommon for student-athletes to repeatedly voice their opinions independent of the coaches and administration. 92 For example, when BYU was scheduled to play football against San Jose State on October 25, 1969, the Spartans wore black armbands in support of Wyoming's Black 14. 93 Dissatisfied with the mobilization at Wyoming, other Western Athletic Conference (WAC) schools demanded that Wyoming be dropped from their college football schedule, though it did not result in that outcome. 94¶ Prior to the Wyoming Black 14 incident, San Jose State University student-athletes displayed armbands in solidarity against racism within the Fraternal Greek system at school and local business establishments. 95 Similarly, after student-athletes threatened to refuse to play in the opening game of the 1967 college football season against the University of Texas-El Paso due to protest racism, San Jose [\*88] State University's president Robert Clark actually canceled that game to avoid confrontation, and the New York Times called it unprecedented: the first college game canceled due to "racial unrest." 96¶ Amidst this dark period of racial and political unrest and protests between student-athletes and their institutions, other landmark events occurred which helped shape the development of the student-athlete activist movement. In 1967, for example, thirty-five University of California, Berkeley football players boycotted spring [\*89] practice due to a lack of African-American coaching staff. 97 One year later, in 1968 players at Michigan State University delivered a list of demands to their AD, Biggie Munn, refusing to play football unless a search was conducted for African-American coaches, trainers, and cheerleaders. 98 Twenty-four players walked out of spring practice as a result of Munn's refusal to comply. 99 In 1972, the University of Washington Huskies football team refused to take the field for the second half of their homecoming game unless a protest statement was read over the stadium sound system opposing the Vietnam War. 100 Such championing of early efforts by student-athletes--successful or not--laid the groundwork for the next phase of activism.